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VOLUME III

PROCEEDINGS
of the
VERMONT
Historical Society



Ninety-fourth Annual Meeting
The Unicameral Legislature
of Vermont

PUBLISHED BY THE SOCIETY
Montpelier Vermont
FOR THE YEAR
1932

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Proceedings
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Historical Society



Montpelier Vermont

1932

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EDITORIAL

With this issue, for the entire year of 1932, the *Proceedings* of the Vermont Historical Society becomes an annual publication. This change has become necessary because of lack of funds to continue our quarterly.

For many years, the State of Vermont has made an appropriation of five thousand dollars annually for the purposes of the Society. These purposes are essentially State functions. The greater part of the appropriation has always been used to maintain the valuable library and museum in the State Office Building. This library, one of the best of its kind in New England, has always been available to all citizens of Vermont, without charge. Throughout the year it is used by a large number of persons, intent on historical or genealogical research. The rooms are visited by thousands, young and old, who receive inspiration from the historic objects displayed.

It has long been the ambition of the Society to publish town histories, and other works of serious nature, pertaining to the history of Vermont. To aid that work, the late James Benjamin Wilbur of Manchester left to the Society a fund of \$100,000.00, which, after long delays, became available to the Society this year. This fund will produce an income of about four thousand dollars. It had been hoped that it would make possible a great extension of the Society's activities.

The result, however, has been the opposite. The Legislature, seeking all possible economy, made no appropriation whatever for the Society. The income of the Wilbur fund must therefore be used largely to operate the library and museum. Publishing will have to be reduced to a minimum. A public function, supported by a public appropriation, must now be supported out of a private trust fund, intended not to replace but to supplement the public appropriation. The Society is in the same position that it would have been, if the Wilbur fund had been confiscated, and the usual appropriation reduced by twenty per cent.

The officers of the Society, appreciating the need for public economy, regret the decision of the Legislature, and hope that the next session will restore the small and efficiently handled appropriation necessary to carry on work of an essentially public nature.

REPORT OF THE NINETY-FOURTH ANNUAL MEETING

The ninety-fourth annual meeting was held January 19th, 1932. It was called to order by President Spargo, who spoke concerning the great loss to the Society in the death of Walter H. Crockett.

A resolution reciting the loss sustained, and the deep regret of the Society, was read and adopted. The resolution stated Mr. Crockett's long service to the Society, and his zeal in making popular the study of the history of Vermont. His work as a writer of history, and his editing of several volumes of public records, constitute the most important contribution to our historical literature made by any individual in this generation. "Few men in the long history of this Society have done so much to inspire the youth of Vermont with pride in the history of this State. His influence was felt in every school in the State. Ardent in his patriotism, gracious in his personality, loyal and generous in his friendships, unwearied in service for this Society and for the State he loved so well, Walter Hill Crockett has left a noble memory which we cherish—the record of a life of generous patriotism which we gratefully honor. To his widow and children we express our profound sympathy in their bereavement."

After the approval of the record of the previous meeting, the President reported the status of the Wilbur fund litigation; he also explained that there was outstanding a loan of about \$3,300.00 for the publication of the History of Barnard. He spoke of the need of prompt action to prevent further deterioration of the statue of Ethan Allen on the portico of the Capitol.

The reports of the Librarian and the Treasurer were read and approved. It was voted that the Society assume the obligation of the indebtedness now carried by Mr. Howland for the History of Barnard. It was voted that the President appoint a committee to consider the situation regarding the statue of Ethan Allen, and report to the next session of the Legislature. The following committee was appointed: John Clement, Wade Keyes, Fred A. Howland, Arthur W. Peach, Benjamin Gates.

It was voted that the President appoint a committee to consider the matter of a memorial to Admiral Dewey, and report at the next annual meeting. The following were appointed: Wade Keyes, Arthur W. Peach, Vrest Orton, John Clement.

It was voted to amend the By-Laws by adding to Section One, paragraph six, the following sentence: "Members may also be elected by the

Board of Directors between meetings of the Society, provided that all such elections are reported at the next ensuing annual meeting."

Robert Dutton Proctor of Proctor was elected a life member.

The following were elected active members: E. S. Arnold, Plattsburgh, N. Y., Mrs. Martha Bayard, Arlington, Miss Mary R. Bates, Burlington, Allen Penfield Beach, Burlington, Bennington Battle Monument & Historical Association, Bennington, William Farrand Branch, Champlain, N. Y., Bixby Memorial Free Library, Vergennes, Mrs. Gertrude Daniels, Grafton, Miss Mary W. Ellis, Springfield, Sidney S. Gorham, LaGrange, Ill., James Nathaniel Jenne, Burlington, Joseph A. Peck, New York, N. Y., G. A. Russell, Arlington, Mrs. Mary B. Slade, Thetford, Rev. William Slade, Thetford, Curtis R. Smith, St. Albans, MacLaren Stevenson, Stratford, Conn., Gertrude S. Richmond Thayer, Brattleboro, Leo Leonard Twinem, Flushing, N. Y., George Baxter Upham, Boston, Mass., Harold F. Wilson, Annandale-on-Hudson, N. Y., and Lyman P. Wood, Burlington.

The officers elected for the ensuing year are listed on the inside front cover.

Report was made of the death of seven members since the last meeting.

Dorman B. E. Kent was appointed a committee on necrology. Arthur W. Peach reported that the Committee on Vermont Traditions and Ideals had perfected an organization covering about two-thirds of the State.

The President appointed the following standing committees: Library and Exhibits, Harold G. Rugg, Arthur W. Peach, Mason S. Stone, Dorman B. E. Kent, John Spargo; Printing and Publishing, John Spargo, Arthur W. Peach, Vrest Orton, Henry Steele Wardner, Harold G. Rugg, Dorothy Canfield Fisher, and John Clement, editor; Finance, Benjamin Gates, Frank C. Partridge, F. Whitney Harrington, Dorothy Canfield Fisher, and John Spargo; Extension Work, Dorman B. E. Kent, Edward S. Marsh, Phil S. Howes, Arthur H. Keyes, Miss Shirley Farr.

The meeting was adjourned.

REPORT OF THE LIBRARIAN

A summary of the library activities is as follows:

Books and miscellaneous items catalogued	954
Groups of manuscript read	82
Cards filed	7,410
Accessions purchased	293

During the year, many visitors came, showing great interest in the exhibits. Talks were given to groups of school children. Our space is becoming more crowded, and some items of interest have had to be placed in storage.

Notable among the acquisitions is the Nobel Prize Medal in Literature awarded to Sinclair Lewis in 1930, and placed by him here as a loan. Mrs. A. L. Douglass gave the orderly book of Captain Paul Brigham (later Governor of Vermont), written in 1779. Part of this book contains records of the proprietors of the town of Brookfield, of whom he was one. Charles F. Heartmann presented ten letters acknowledging election as honorary members of the Society. Among these are signatures of Charles Sumner and Edward Everett. Various other documents have been received, making additions to our collections.

The Vermont Society of Colonial Dames has brought its collection of deposited genealogies up to a total of 241 volumes, containing many of great value and rarity, carefully selected by their librarians, with the advice of Mr. Kent. Queries on genealogy, other than those made by members of the Society, or by residents of Vermont, have been turned over to genealogical workers, leaving more time for our work in other respects. Through the kindness of Mrs. H. S. Mills, we have copied a large part of the Bible records and wills compiled by the Vermont chapters of the Daughters of the American Revolution for deposit in Washington. These are of great value.

I do not feel that I can close my report without acknowledging the assistance of the members of the various committees and expressing my appreciation of the courtesy and tolerance shown by President Spargo to a novice in the historical field. His ready sympathy and amused understanding have aided materially in smoothing out the many problems confronting me. . . .

MARGARET KANALY,
Librarian-Curator.

TREASURER'S REPORT

A large number of members fail to pay annual dues. Only \$694.00 was collected from this source, although we should be able to plan on about \$1,000 from our present membership. We have a trust fund of \$3,649.96 which we hope may grow into an endowment fund. All that goes into this at present is interest at 4 per cent and life membership fees, which come in very slowly.

All bills are approved by the president and then forwarded to me for payment. None of the State appropriation, however, is handled by me, or accounted for in this report.

RECEIPTS

Cash on hand, Dec. 31, 1930			\$ 236.22
Dues, Life	\$ 50.00		
Back	56.00		
Future	29.00		
1931	694.00	\$ 829.00	
Other funds, Miscellaneous	\$ 12.65		
Proceedings	17.00		
Refund	97.21		
Edmunds	940.43		
Marlboro	237.62		
Barnard	56.13	\$1,361.04	\$ 2,190.04
			<hr/>
			\$ 2,426.26

DISBURSEMENTS

Marlboro History	\$216.10		
Travel, etc.	51.72		
Books, etc.	367.40		
Postage	100.50		
Miscellaneous	105.98		
Salary	47.00		
1800 Census	208.10		
Edmunds Fund	370.47		
Tel. & Tel.	10.80		
Montpelier National Bank	619.96	\$2,098.03	
		<hr/>	
Balance, Dec. 31, 1931		328.23	\$ 2,426.26
Resources*			\$12,348.63
Interest			351.99
			<hr/>
			\$12,700.62
Resources as of Dec. 31, 1930			\$11,975.03
			<hr/>
Gain during 1931			\$ 825.59

* Includes Edmunds Fund, \$1,062.56; and Dewey Fund, \$6,611.39.

F. WHITNEY HARRINGTON,
Treasurer.



NEW SERIES

1932

VOLUME III

PROCEEDINGS OF THE VERMONT HISTORICAL SOCIETY

THE UNICAMERAL LEGISLATURE OF VERMONT

By DANIEL B. CARROLL

ASSOCIATE PROFESSOR OF POLITICAL SCIENCE IN THE UNIVERSITY OF VERMONT

CHAPTER I

INTRODUCTION

a. Development of Legislative Organization

REPRESENTATIVE government¹ and the bicameral system of legislative organization² had their initial development in England. The bicameral system developed, not as a result of any fixed purpose to set up a system of checks and balances or from any feeling that a legislative body of two houses was inherently superior to one organized with any other number of houses. It was the result of accident rather than of conscious purpose.

This is well explained by Freeman when he says: "The whole doctrine of two branches of a legislature, the *bicameral* system as it is called, the endless attempts, successful and unsuccessful, to set up artificially in other lands what has come to us ready-made through the facts of history, all go on the principle that there shall be two houses and no more. Now, if we look to the history of our own constitution, we shall find that this particular number of two, as the number of the Houses of our Parliament, is not owing to any conviction that two Houses would work better than either one or three,

but was a matter of sheer accident. The Estates of the Realm are in England no less than elsewhere, three—Nobles, Clergy, and Commons. In France, we all know, the Clergy remained a distinct member of the States-General as long as the States-General lasted. In England the Clergy could never be got permanently to act as a regular parliamentary Estate. The causes of this difference belong to the particular history of England; the effects of it are that the Parliament of England remained a Parliament of two Houses only, and that a crowd of constitutions, European and American, have followed the English model. The accident then has, in its consequence, been one of the great facts of later political history. . .”³

The legislative bodies set up in the American Colonies were bicameral, except in Pennsylvania and Delaware.⁴ This was doubtless due to the fact that it was the bicameral system with which those who were responsible for the organization of these legislative bodies were familiar.⁵ The remarkable thing, under the circumstances, was that there should have been any of the Colonial legislatures organized on a unicameral basis.

When governments were organized by the various states, following the Declaration of Independence, bicameral legislatures were established in all cases, except Pennsylvania, Georgia, and Vermont. These states, Pennsylvania in 1776 and Georgia and Vermont in 1777, provided unicameral legislative bodies. Shortly after the formulation of the federal constitution, two of these three states adopted the bicameral scheme, Georgia in 1789 and Pennsylvania in 1790. Vermont, however, continued to use the unicameral scheme until 1836.⁶ The reasons for the organization of the state legislatures on a bicameral basis were probably numerous, but among the more important were (a) a natural tendency to continue a system with which the Colonists were familiar,⁷ (b) conflict between aristocratic and democratic elements in the Colonial period,⁸ (c) adherence to the formula of divided powers and checks and balances,⁹ (d) imitation of the bicameral scheme of the British Parliament,¹⁰ and (e) the influence of the federal system.¹¹

Originally, the idea of class representation gained quite general acceptance, but this has almost entirely disappeared. “Under the earliest state constitutions there were higher property qualifications for membership in the state senate, and for the privilege of voting for senators, than in the case of the other branch of the legislature; so that the two houses were elected by different constituencies and

represented somewhat different social and economic groups or interests. This distinction, however, long ago disappeared, and practically the only differences today between the two houses are the longer term for which senators are usually chosen, the slightly higher age or residence qualifications for membership in the senate, and the fact that the terms of senators usually do not all expire at the same time as do the terms of members of the lower house. So far as determined by suffrage qualifications, the electorates for both houses are now identical."¹²

Prior to the Revolution, the city councils of American cities were organized on a unicameral basis. Shortly thereafter, however, the states began to reorganize their city governments, establishing bicameral city councils. The result was that in a short time a high percentage of American city councils were organized on the bicameral plan. The new scheme was not satisfactory. "It contributed to confusion and irresponsibility in government."¹³ The result was that there was a gradual return to the old unicameral scheme of organization. Today, not one of the twenty-five largest cities of the United States has a bicameral city council, unless it can be said that the Board of Estimate and Apportionment of New York City, created under the home rule law of 1924, which functions as a separate body in the enactment of certain laws, can be said to constitute a second chamber. Among the remaining cities, only a small percentage of them now have legislative bodies of two chambers.¹⁴

In the early state governments, the legislatures had practically unlimited power, but subsequently much of this power has been taken from them either by specific denial of power or by delegation of power to other agencies of government. "In the first state constitutions . . . the legislatures were given a position completely overshadowing the other departments of government. Since then, however, a popular distrust of the legislature has arisen and steadily grown until it has become one of the most striking political phenomena of the present day. A history of state legislatures would be largely concerned with the successive development of various methods of curtailing the almost absolute power which those bodies originally possessed. Leaving for the moment out of account the usurpation of legislative power by the so-called 'third house,' we may say that this general movement has manifested itself in the transfer of legislative power from the legislatures (a) to the courts, (b) to the people, and (c) to the governor."¹⁵

b. *Unicameral Sentiment*

Various writers have recently expressed serious doubt as to the adequacy of the bicameral scheme. The whole problem of legislative organization has been subjected to rigid scrutiny and, while the point of view may vary somewhat, what were once claimed to be fundamental advantages of bicameralism have been (and are being) definitely questioned.¹⁶

This criticism of the bicameral legislature has gone beyond the academic stage. A serious movement for the substitution of a unicameral legislature for the one now in use in the various states has been developing since 1912.¹⁷ During this period, definite proposals for the acceptance of the unicameral scheme have been up for adoption in at least ten states. These are Ohio (1912),¹⁸ Oregon (1912 and 1914),¹⁹ Nebraska (1913, 1915, and 1919-1920),²⁰ Kansas (1913),²¹ Arizona (1915 and 1916),²² Oklahoma (1914),²³ California (1913, 1915, 1917, 1921, 1923, and 1925),²⁴ Alabama (1915),²⁵ Washington (1915 and 1917),²⁶ and South Dakota (1917, 1923, and 1925).²⁷

The Ohio proposal was introduced in the constitutional convention of 1912 by one of its ablest members. In Oregon, the question was submitted in referenda in 1912 and 1914. The vote in the former year was approximately 30,000 for and 71,000 against the proposal, while, in the latter, 63,376 votes were cast for the proposal, and 123,429 against it.²⁸ "In Nebraska a joint legislative committee made a report (1913) recommending that in 1916 a constitutional amendment be submitted providing for a legislature of one house. The proposal received the support of a majority of the 1915 session, but not enough votes to submit it to the electorate. In the constitutional convention of 1919-1920, a resolution for the separate submission of a unicameral proposition was defeated only by a tie vote."²⁹ At least nine proposals for the adoption of the unicameral system were introduced in the legislature of California in the period, 1913-1925. Every one of these proposals failed to secure the necessary two-thirds vote in each house, but the vote on some of them indicated a considerable sentiment in their favor. For instance, in 1913, a proposal (S. C. A. 73 and A. C. A. 91), introduced in the two houses concurrently, passed the Senate by a vote of 19 to 15 and the Assembly by a vote of 37 to 30. A proposal (S. C. A. 8) introduced in the Senate in 1917 received a majority vote, but failed to

receive the two-thirds vote required for passage. The vote in this case was 19 for and 17 against the proposal. The Senate rejected a similar amendment in 1925 (S. C. A. 12) by a vote of 17 to 15.³⁰ The proposals, in Kansas³¹ in 1913, in Arizona³² and Washington³³ in 1915, in Washington³⁴ and South Dakota³⁵ in 1917, and in South Dakota in 1927³⁶ were made by the governors of those states in their regular messages to the legislatures. In Oklahoma, a proposed constitutional amendment was submitted in referendum in 1914. The result of the vote showed 94,686 for and 71,742 against the proposal, but, since a majority of the total vote cast in the election was necessary to secure adoption, the measure failed to pass. The vote on a similar proposed constitutional amendment in Arizona in 1916 showed 11,631 in favor and 22,286 against the proposed change.³⁷ In Alabama, the proposal was in the form of a bill introduced in the House of Representatives to provide for a legislative body of one house.³⁸ A resolution for a single house passed the Senate of South Dakota in 1925 by a vote of 26 to 15.³⁹

In recommending the adoption of a unicameral legislative body for the state of Kansas in 1913, Governor Hodges said: "In common with a large and growing number of thoughtful people, I am persuaded that the instrumentalities for legislation provided for in our state constitution have become antiquated and inefficient. Our system is fashioned after the English parliament with its two houses based upon the distinction between the nobility and the common people, each house representing the divers interests of these classes. No such reason exists in this state for a dual legislative system, and even in England at the present time the dual system has been practically abandoned. . . ."⁴⁰

A similar opinion was expressed by Governor Hunt of Arizona in 1915: "It is becoming generally recognized not only in Arizona but in many other states that the legislative body consisting of two separate houses is unwieldy, and results not infrequently in such an evasion of responsibility as defeats the ends of government."⁴¹

In his message to the legislature, under date of January 12, 1915, Governor Lister of Washington said: "I do believe . . . that better results would be obtained if we had one legislative body in the state consisting of say not to exceed twenty-five members, five elected from each congressional district . . . and by fixing the time of each regular session of the Legislature at ninety instead of sixty days."⁴²

In his message two years later he again recommended the adoption of the unicameral system: “. . . I believe that a higher degree of efficiency would be secured if the State had but one Legislative Body consisting of say five members from each of the five Congressional Districts of the State, and respectfully recommend that this suggestion be given consideration when the question of legislative apportionment is taken up by your Honorable Body.”⁴³

Governor Norbeck of South Dakota made even a stronger plea for the adoption of the unicameral system in his message to the legislature in 1917: “There is considerable sentiment in favor of abolishing one legislative chamber. I think the idea is entirely practical. Our system is simply a relic of days gone before. My experience and observation as a member of the senate for several terms leads me to believe that the saving in expense is the least important item. The more important, I believe, is that it would result in better and more carefully considered laws where the responsibility was centered in one body. It is a common habit for the members of one house to feel that if there is any error or any bad features in a bill when it passes, that the other house will surely look out for it. Each depends on the other and neither watches as closely as it should.”⁴⁴

Governor Bulow stressed the fact that popular sentiment in favor of a unicameral legislature existed in the state in his message of 1927: “A very considerable sentiment in favor of changing the form of the law-making body is observable in this state. The people always have the right to be heard when they seek changes in the law, or in the form of their government. Therefore, I would recommend that this legislature take the necessary steps to submit to a vote of the people of this state a proper constitutional amendment, providing for a one-house legislature, consisting of not less than fifteen nor more than twenty-one members.”⁴⁵

c. *Use of Unicameral System*

The prevalence of the bicameral system among the national governments of the world may seem to give it pre-eminence over the unicameral scheme, but, when one looks at the governments of the states which go to make up the federal states of the world, the advantage would seem to lie on the side of the unicameral system. Of the sixty-two states of the world listed in the table of contents of *Political Handbook of the World* (1932),⁴⁶ only fifteen can be

definitely said to have their national legislative bodies organized on a unicameral basis. These fifteen states are Albania,⁴⁷ Bulgaria,⁴⁸ Costa Rica,⁴⁹ Estonia,⁵⁰ Finland,⁵¹ Guatemala,⁵² Honduras,⁵³ Latvia,⁵⁴ Lithuania,⁵⁵ Norway,⁵⁶ Panama,⁵⁷ Persia,⁵⁸ El Salvador,⁵⁹ Spain,⁶⁰ and Turkey.⁶¹

Among the states of the American Union, the bicameral system holds sway. In Australia, five of the six states have two-chambered legislative bodies. Eight of the nine provinces of Canada have unicameral legislatures. "In Argentina the majority of the provinces, which correspond to our states, have the two-chambered system, but some have legislative bodies of only one house; and in most of the individual states of the other Latin American federations the unicameral plan prevails. . . . All of the cantons of Switzerland, which operate under the representative system, have single-chambered bodies."⁶² All of the states which comprise the German Reich (except Prussia),⁶³ the Republic of Austria,⁶⁴ and the Union of Soviet Socialist Republics⁶⁵ have unicameral legislative bodies.

d. Arguments for Unicameral System

The theoretical arguments advanced in favor of the adoption of the unicameral system by the American states are (a) that it will permit much better scrutiny of the legislative process by allowing attention to be centered upon one house instead of two,⁶⁶ (b) that it will permit less shifting of responsibility by members of the legislature,⁶⁷ (c) that it will simplify the legislative process,⁶⁸ (d) that it will eliminate delays, deadlocks, and friction which are felt to be an essential characteristic of the bicameral system,⁶⁹ (e) that it would allow the payment of better salaries to legislators and still permit a reduction in the legislative costs of government,⁷⁰ (f) that better results would be obtained,⁷¹ (g) that it would make the legislative bodies less cumbersome and still not eliminate the desirable checks which we now have, as, veto by the governor and constitutional restrictions enforced by the courts,⁷² and (h) that it would secure better representation of all the interests of the people.⁷³

No attempt has heretofore been made to determine to what extent the arguments advanced for the unicameral legislature may be supported by the experience of American states operating under the unicameral system. Vermont retained that scheme much longer than

any other American state and an investigation of its experience should yield valuable data for comparison of the relative merits of the unicameral and bicameral systems.

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2. James Bryce, *Modern Democracies* (New York, 1921), pp. 395, 396, 407.
3. Edward A. Freeman, *Comparative Politics* (New York, 1874), pp. 21-22.
4. Walter F. Dodd, *State Government* (New York, 1928), p. 141. For an analysis of the organization of the Colonial legislature of Georgia, see *The Colonial Records of Georgia*, comp. and pub. under authority of the Legislature by Allen D. Candler (25 vols., Atlanta, 1904-1915), XIII, p. 3.
5. Thomas Francis Moran, *The Rise and Development of the Bicameral System in America* (Baltimore, 1895), pp. 12-13.
6. Dodd, *State Government*, p. 141.
7. *Ibid.*
8. Frederic A. Ogg and P. Orman Ray, *Introduction to American Government* (New York, 1931), p. 685.
9. *Ibid.*
10. Bryce, *Modern Democracies*, p. 398.
11. William Bennett Munro, *The Government of the United States* (New York, 1931), p. 550.
12. Ogg and Ray, *Introduction to American Government*, pp. 685-686.
13. Charles A. Beard, *American Government and Politics* (New York, 1931), p. 725.
14. Ogg and Ray, *Introduction to American Government*, p. 928; William Bennett Munro, *The Government of American Cities* (New York, 1926), pp. 286-287; Austin F. Macdonald, *American City Government and Administration* (New York, 1929), p. 58.
15. John Mabry Mathews, "The New Role of the Governor," in *American Political Science Review*, VI (1912), pp. 220-221.
16. J. H. Morgan, "Second Chambers," in *Contemporary Review*, XCVII (1910), pp. 533-544; Munro, *The Government of the United States*, p. 550; *The New Statesman* of February 7, 1914, "The Ideal Second Chamber," II (October, 1913, to April, 1914), pp. 551-552; S. P. Orth, "Our State Legislatures," in *Atlantic Monthly*, CXIV (1904), p. 739; H. B. Lees-Smith, *Second Chambers in Theory and Practice* (London, 1923), pp. 135-136; James T. Young, *The New American Government and its Work* (New York, 1933), p. 516; Agnes Headlam-Morley, *The New Democratic Constitutions of Europe* (London, 1928), p. 164; Ogg and Ray, *Introduction to American Government*, pp. 686-691; May Wood-Simons, "Operation of the Bicameral System in Illinois and Wisconsin," in *Illinois Law Review*, XX (1925-1926), pp. 674-686; John E. Hall, "The Bicameral Principle in the New Mexico Legis-

lature," in *National Municipal Review*, XVI (1927), pp. 185-190; John E. Hall, "The Bicameral Principle in the New Mexico Legislature of 1925," in *Nat. Mun. Rev.*, XVI (1927), pp. 255-260; Ralph S. Boots, "Our Legislative Mills: Nebraska," in *Nat. Mun. Rev.*, XIII (1924), pp. 111-119; L. Rockow, "Bentham on the Theory of Second Chambers," in *American Political Science Review*, August, 1928; James Wilford Garner, *Political Science and Government* (New York, 1928), pp. 600-624; Harold J. Laski, "The Problem of a Second Chamber," *Fabian Tract No. 213* (London, 1925), pp. 11-13; Raymond Garfield Gettell, *Political Science* (Boston, 1933), pp. 308-311.

17. Some recent proposals for the adoption of the unicameral system, emanating from private or semi-official sources, are significant. The legislative committee of the Citizens' League of Cleveland recently recommended that a proposal for the adoption of a unicameral legislative body be given serious consideration before the constitutional convention, which, it was anticipated, would be called in 1932, was convened. See Ogg and Ray, *Introduction to American Government*, p. 691. The state of Ohio, however, did not hold a constitutional convention in 1932 and no formal action has since been taken to secure the adoption of a unicameral legislature for that state. As a result of an extensive survey of legislative systems, conducted during 1931 and 1932, The Legislative System Survey (1016 Title & Trust Building, Phoenix, Arizona), sponsored by public spirited citizens of Arizona, has prepared a report recommending the adoption of a unicameral legislature for Arizona. This plan will be submitted either to the legislature or to the people, through the initiative, for adoption in the near future. The National Institute of Public Administration, of New York City, in a proposed plan for the reorganization of the government of New Jersey, recently (1929) recommended the adoption of a unicameral legislature consisting of not more than twenty-five members. This recommendation was opposed by Governor Morgan F. Larson and has not been adopted. See *The United States Daily*, March 27, 1930, Washington, D. C.

18. Wood-Simons, "Operation of the Bicameral System in Illinois and Wisconsin," *Ill. Law Rev.*, XX (1925-1926), p. 674.

19. Dodd, *State Government*, p. 142.

20. Ogg and Ray, *Introduction to American Government*, p. 690.

21. G. H. Hodges, Message of Governor, *House Journal, State of Kansas* (1913), p. 1039.

22. George Willie Paul Hunt, Message of Governor, *Arizona Legislative Journal* (1915), p. 37; Dodd, *State Government*, p. 142.

23. Dodd, *State Government*, p. 142.

24. *Journal of the Senate, California*, 1913 (Sacramento, 1913), pp. 1822, 2434, 2729; *Journal of the Assembly, California*, 1913 (Sacramento, 1913), pp. 1973, 2672, 2785, 2789; *ibid.*, pp. 483, 2458, 2578, 2684, 2774; *Journal of the Senate, California*, 1915 (Sacramento, 1915), pp. 238, 2510; *Journal of the Assembly, California*, 1915 (Sacramento, 1915), pp. 503, 2506; *Journal of the Senate, California*, 1917 (Sacramento, 1917), pp. 87, 1888, 2026-2030, 2470; *ibid.*, 1921, pp. 234, 2435; *ibid.*, 1923, p. 1103; *ibid.*, 1925, pp. 125, 1371, 1414, 1656.

25. *House Journal, State of Alabama* (2 vols., 1915), II, p. 2314.

26. E. Lister, Message of Governor, Washington Public Documents (2 vols., 1913-1914), I, p. 6; *ibid.* (1915-1916), p. 34.
27. Peter Norbeck, Message of Governor, *Journal of the Senate, South Dakota* (1917), p. 76; *Journal of the Senate, South Dakota* (1925), p. 545; W. J. Bulow, Message of Governor, *Inaugural Address of Governor W. J. Bulow to the Twentieth Legislative Session of the State of South Dakota* (1927), p. 9.
28. Wood-Simons, "Operation of the Bicameral System in Illinois and Wisconsin," *Ill. Law Rev.*, XX (1925-1926), p. 674.
29. Ogg and Ray, *Introduction to American Government*, p. 690.
30. *Journal of the Senate, California*, 1913, pp. 1822, 2434, 2729; *Journal of the Assembly, California*, 1913, pp. 1973, 2672, 2785, 2789; *ibid.*, pp. 483, 2458, 2578, 2584, 2774; *Journal of the Senate, California*, 1915, pp. 238, 2510; *Journal of the Assembly, California*, 1915, pp. 503, 2506; *Journal of the Senate, California*, 1917, pp. 87, 1888, 2026-2030, 2470; *ibid.*, 1921, pp. 234, 2435; *ibid.*, 1923, p. 1103; *ibid.*, 1925, pp. 125, 1371, 1414, 1656. See also *The Constitution of the State of California*, ed. by Edward F. Treadwell (San Francisco, 1923), p. 792.
31. Hodges, *House Journal, State of Kansas* (1913), p. 1039.
32. Hunt, *Arizona Legislative Journal* (1915), p. 37.
33. Lister, Washington Public Documents (1913-1914), I, p. 6.
34. *Ibid.* (1915-1916), p. 34.
35. Norbeck, *Journal of the Senate, South Dakota* (1917), p. 76.
36. Bulow, *Inaugural Address of Governor W. J. Bulow to the Twentieth Legislative Session of the State of South Dakota* (1927), p. 9.
37. *Directory, State of Oklahoma*, 1929, comp. by John E. Luttrell, Secretary, State Election Board, p. 150; *Constitution of the State of Oklahoma*, Art. 5, Sec. 3; Wood-Simons, "Operation of the Bicameral System in Illinois and Wisconsin," *Ill. Law Rev.*, XX (1925-1926), p. 674.
38. *House Journal, Alabama*, II (1915), p. 2314.
39. *Senate Journal of South Dakota* (1925), p. 545.
40. Hodges, *House Journal, State of Kansas* (1913), p. 1039.
41. Hunt, *Arizona Legislative Journal* (1915), p. 37.
42. Lister, Washington Public Documents, I (1913-1914), p. 6.
43. Lister, Washington Public Documents (1915-1916), p. 34.
44. Norbeck, *Journal of the Senate, South Dakota* (1917), p. 76.
45. Bulow, *Inaugural Address of Governor W. J. Bulow to the Twentieth Legislative Session of the State of South Dakota* (1927), p. 9. Attention should be called to the fact that the model state constitution prepared by the National Municipal League provides a unicameral legislature. This body, however, is to be assisted by a council consisting of the governor and seven members chosen by and from the legislature. This legislative council is to select its own chairman. It will meet whenever necessary to fulfill its function of considering and preparing legislative material for presentation to the legislature. See *A Model State Constitution*, National Municipal League, pp. 4-7.
46. *Political Handbook of the World*, Council on Foreign Relations, ed. by Walter H. Mallory (New York, 1932).
47. *Ibid.*, p. 1.

48. *The Statesman's Year-Book*, ed. by M. Epstein (London, 1931), p. 709.
49. Herman G. James and Percy A. Martin, *The Republics of Latin America* (New York, 1923), p. 396.
50. Howard Lee McBain and Lindsay Rogers, *The New Constitutions of Europe* (New York, 1923), p. 38.
51. *Ibid.*
52. James and Martin, *The Republics of Latin America*, p. 382.
53. *Ibid.*, p. 389.
54. *The Statesman's Year-Book*, ed. by Epstein, p. 1071.
55. *Ibid.*, pp. 1091-1092.
56. Ogg and Ray, *Introduction to American Government*, p. 688.
57. James and Martin, *The Republics of Latin America*, p. 402.
58. *The Statesman's Year-Book*, ed. by Epstein, p. 1171.
59. James and Martin, *The Republics of Latin America*, p. 385.
60. *The New York Times*, October 28, 1931.
61. *The Statesman's Year-Book*, ed. by Epstein, pp. 1323-1324.
62. Dodd, *State Government*, p. 145. See also Frederic A. Ogg, *English Government and Politics* (New York, 1929), p. 334.
63. A. Lawrence Lowell, *Greater European Governments* (Cambridge, 1925), p. 287.
64. *The Statesman's Year-Book*, ed. by Epstein, pp. 663-664.
65. *Ibid.*, pp. 1229-1232; Munro, *The Governments of Europe* (New York, 1931), pp. 770-771; P. Orman Ray, *Major European Governments* (Boston, 1931), p. 397.
66. Ogg and Ray, *Introduction to American Government*, p. 689.
67. *Ibid.*; Frank G. Bates and Oliver P. Field, *State Government* (New York, 1928), p. 140.
68. Ogg and Ray, *Introduction to American Government*, p. 689; Bates and Field, *State Government*, p. 140.
69. Ogg and Ray, *Introduction to American Government*, pp. 689-690; Bates and Field, *State Government*, p. 140.
70. Ogg and Ray, *Introduction to American Government*, p. 690.
71. *Ibid.*
72. Dodd, *State Government*, pp. 145-146.
73. Sheldon Amos, *The Science of Politics* (New York, 1883), pp. 245-246.

CHAPTER II

DEVELOPMENT OF THE UNICAMERAL LEGIS- LATURE OF VERMONT

VERMONT adopted a constitution in 1777 which was copied almost wholly from the constitution of Pennsylvania. It is probable that the scheme of governmental organization which was then adopted was accepted on practical rather than theoretical grounds. The constitutional conventions of 1777 probably accepted it, not so much because it was inherently perfect, as because it offered a workable scheme for getting the state organized for governmental purposes.¹

This constitution made definite provision for legislative and executive branches and rather indefinite provision for a judicial branch of the government. The organization and function of the legislative and executive branches and the relationship between these two branches in the performance of their various functions, particularly the legislative function, were defined. The names of various courts to be established by law were given and some idea of their function indicated, but their relationship to each other and to the other branches of the government was not defined, except that judges were to be commissioned (and possibly appointed) by the Governor and Council and might be impeached by the House of Representatives and the Governor and Council.²

Supreme legislative power was vested in a House of Representatives. This body was to consist of one representative from each inhabited town, except that, during the first seven years, each town that contained at least eighty families was to be entitled to one additional representative. Elections of members and sessions were to be held annually.³

Executive power was vested in a Governor and Council. This body was to consist of the Governor, the Lieutenant Governor, and twelve other persons elected annually from the state at large. A plurality was adequate for the election of all of the members, except the Governor and the Lieutenant Governor for whom a majority vote was required. In the event of failure to elect either a governor or a lieutenant governor, the decision as to who should hold the office

was to be made by a joint meeting of the Council and the House of Representatives. Sessions of the Governor and Council were to be held annually at the same time and place as the sessions of the House of Representatives.⁴

Although all power to enact laws rested in the House of Representatives, all bills of a public nature had to be presented to the Governor and Council for "their perusal and proposals of amendment" and could not be finally enacted into law until the next session of the House of Representatives, except that temporary measures might be passed, in case of necessity, after presentation to the Governor and Council. Private bills apparently might be enacted into law without presentation to the Governor and Council.⁵

The constitution obviously intended that the House of Representatives should originate and pass all laws without restriction, except that all public bills must be presented to the Governor and Council for consideration and proposals of amendment before they could be enacted into law and that permanent public bills could not be finally enacted into law until the session following the one during which they were presented to the Governor and Council. A law of June 9, 1785, which presumably was intended to carry into effect these provisions of the constitution, outlined what seems to have been a very different procedure. It apparently assumed that any measure might originate in the Council as well as in the House and explicitly regulated the passage of laws originating in each of these two bodies. It authorized the enactment of any law at the session during which it originated. Bills originating in the Council need not now be presented to that body after their acceptance by the House, but those originating in the House were required to be presented to the Council once, at least, and twice, if the Council returned them to the House with amendments some or all of which the House refused to accept. The Council was allowed three days or until the adjournment of the legislature, if less than three days of the session remained, during which to propose amendments to bills presented to it. In the event the Council and the House were unable separately to agree on amendments to a bill, they were required to meet in joint session to consider the problem, after which the House was apparently free to enact the proposed measure into law.⁶

The power to propose amendments to the constitution and to set in motion the machinery to secure their ratification was given exclusively to a Council of Censors. This body was to consist of thirteen

persons elected on a general ticket septennially on the last Wednesday in March, beginning in 1785. Members of the Governor and Council and the House of Representatives were not eligible. A plurality was adequate for election. The term of office was one year from the date of election. The Council of Censors was required to meet on the first Wednesday in June following its election. The only method provided for ratifying amendments was by a convention called by the Council of Censors. Proposed amendments had to be promulgated at least six months before the date set for the meeting of the convention and the convention had to meet within two years after the session of the Council of Censors. The convention was restricted to a consideration of the amendment proposals submitted to it by the Council of Censors.⁷

The Supreme Court was created by an act passed by the legislature in 1782. It was to consist of one chief judge and four assistant judges elected annually by joint session of the Governor and Council and House of Representatives. Sessions of the court were to be held annually in each county in the state. It apparently had unrestricted appellate as well as original jurisdiction over all civil and criminal cases.⁸

The convention of 1786 ratified amendments which materially altered the relationship between the Governor and Council and House of Representatives in the enactment of law. The constitution now authorized the enactment of any law at the session during which it originated. All bills had to be presented to the Governor and Council for "revision, concurrence, and proposals of amendment" before they could finally be passed into law. The Governor and Council was authorized to suspend the passage of any bill until the next session of the House of Representatives, provided it acted to suspend within five days after the bill had been presented to it. The legislative, executive, and judicial branches of the government were henceforth to be kept "separate and distinct" in the performance of their various functions.⁹

The law of June 9, 1785, which regulated the procedure to be followed in the passage of law, was altered by an act of February 26, 1787, so as to allow the Governor and Council five days instead of three in which to propose amendments to bills and to allow it to suspend the passage of "House bills on a disagreement of the two houses as to amendments." This procedure was further modified by an act of February 22, 1797, which required the submission of

all House bills to the Council for "revision, and concurrence, or proposals of amendment" and authorized, but did not require, a joint meeting of the Council and House to consider amendments about which they were unable separately to agree. An act passed October 29, 1801, allowed the Council to non-concur in the passage of a House bill and, if the House still insisted on the passage of the bill, the position of the Council was the same as when the bill was first presented to it, so far as its freedom of action was concerned, provided it did not attempt to follow this procedure a second time in dealing with the same bill.¹⁰

By 1805, a procedure for handling the initiation of legislation was established which was to continue until the Governor and Council was abolished in 1836. Under this arrangement, requests for legislative action were usually presented for investigation and recommendation to House committees appointed at the beginning of each session. Each committee usually consisted of four House members and one member of the Council. The Council member was appointed at the request of the House and was usually made chairman. Subjects for committee action were almost invariably proposed in the House and submitted to the various committees by House resolution which was always concurred in by the Council at the request of the House. The Council still occasionally formulated a proposed law and submitted it directly to the House for enactment. These occasions were very rare, however. For instance, it submitted one such proposal to the House in 1816 and none thereafter until 1822, when it submitted two bills to the House.¹¹

The Council of Censors of 1785 proposed to amend the constitution so as to alter the apportionment of the members of the House of Representatives. It proposed, in the interest of greater deliberation and more equal representation, that the size of the House be restricted to fifty members and that these members be apportioned on the basis of population or on the basis of the amount of taxes paid. This proposal was not ratified by the convention of 1786, however.¹²

Five of the next seven Councils of Censors proposed to alter the existing scheme of legislative organization so as to establish the bicameral system. The remaining two (those of 1799 and 1806) proposed no change whatever in the constitution. The first of these proposals was defeated by only a small majority due to the fact that a portion of the proposal attempted to eliminate some of the inequali-

ties in representation in the House of Representatives. The next three proposals were apparently defeated by overwhelming majorities, the vote in the convention of 1828, for instance, being 182 to 47. The proposal of the Council of Censors of 1834 was accepted by the convention of 1836 by a vote of 116 to 113.¹³

The scheme of organization proposed was always the same in that a second chamber with legislative powers equal to those of the first was always provided, but there was considerable variation in the details of the plans to accomplish that end. All of the proposals, except that of the Censors of 1820, would have the members of the second chamber apportioned among the counties on the basis of population. The Censors of 1820 wanted the members of the first chamber, the House of Representatives, apportioned on that basis and the members of the second chamber apportioned on the basis of county equality, one to each county. All others retained the principle of town equality, one to each town, for the first chamber, but the Censors of 1792 would have restricted its operation somewhat by denying representation to towns containing less than forty families, though they would permit towns with a smaller number of families to combine so as to secure representation. All plans provided for annual election of all members of each chamber, except that of the Censors of 1813 which provided for a three-year term with one-third retiring annually for the members of the second chamber, but which did not propose to alter the existing one-year term for the members of the House of Representatives. Three of the plans, those provided by the Censors of 1813, 1828, and 1834, restricted the size of the second chamber to a definite number. In no one of these three plans was the total number of members permitted to exceed thirty. Apparently, all of the proposals, except that of the Censors of 1792, provided for the abolition of the existing Executive Council. The Censors of 1820 and of 1834 deviated somewhat from the principle of complete parity of legislative powers for the two chambers. The former wanted all money bills and the latter all revenue bills to originate in the House of Representatives.¹⁴

There is no evidence of any widespread popular interest in the establishment of the bicameral system during the fifty-seven years of the state's existence prior to 1834. It is true that the convention of 1793 defeated a proposal to establish that system only by a small margin, but it has been shown that the proposal was popular because it would eliminate some of the unfairness of equal town representa-

tion in the legislative body. The conventions of 1814 and 1828 defeated similar proposals by votes of 188 to 20 and 182 to 47, respectively, while the convention of 1822 defeated a proposal to establish a second chamber with legislative powers co-ordinate with those of the first without a record vote and a proposal to reorganize the House of Representatives so as to apportion its members among the counties on the basis of population by a vote of 202 to 14. These facts surely seem to indicate that there could not have been any great popular interest in the subject even in the more populous towns, the towns which would have received some relief from the harshness of the rule of equality of town representation through the adoption of any one of the proposals.¹⁵

This conclusion finds support in the newspapers of the period, although, it is true, they gave comparatively very little attention to the subject. There seems to have been no newspaper comment in the state favorable to the establishment of the bicameral system as such. At least, there seems to be no newspaper of the period (1777-1834) now available which gives any indication of any desire to take such a position. It is true that *The Bellows Falls Intelligencer* urged the adoption of the amendments proposed by the Censors of 1820, but it did so wholly on the ground that it wanted the position of the courts strengthened. The *Vermont Republican* in 1814, *The Vermont Gazette* in 1822 and 1828, and the *Vermont Patriot and State Gazette* in 1828 took positions very decidedly against the adoption of the bicameral system. The *Green-Mountain Farmer* published, on January 13, 1814, resolutions of the Republicans of Rutland and Bennington counties which radically opposed the proposed changes in the constitution and, on March 19, 1814, similar resolutions adopted by a meeting of Federal Republicans in Bennington, although it did not take any position editorially on the subject. These newspapers were published in the more populous centers, where interest in the proposed changes might be expected to develop, if at all.¹⁶

The arguments which these newspapers advanced against the adoption of the bicameral scheme were (a) that the people were happy and prosperous, satisfied with the existing scheme, and indignant because of the proposed change, (b) that the proposed change would eliminate the unicameral system which was the best feature of the existing constitution, (c) that it would increase the cost of government and the tax burden of the people, (d) that it would lengthen the legislative sessions without giving any compensating benefit, (e) that

it would remove the government farther from the people, and (f) that it was not necessary to have a scheme of governmental organization like that of other states.

Notwithstanding overwhelming defeat in convention and apparently unanimous opposition or indifference on the part of the press of the state, the Councils of Censors persisted in their advocacy of the bicameral scheme and they were finally successful in the convention of 1836. The arguments which they advanced in support of their scheme did not vary materially from one Council of Censors to the next, except in so far as they were dictated by the exigencies of local political conditions.¹⁷

The contention of the Censors of 1827 and 1834 that the House of Representatives had usurped legislative authority belonging to the Executive Council and had thus defeated the purpose of the patriotic leaders who had formulated the constitution of the state is not supported by the facts of history. These facts may be briefly summarized.

From 1777 to 1836, the constitution placed supreme legislative power in the House of Representatives and supreme executive power in the Governor and Council.¹⁸ Prior to 1786, bills which had passed the House of Representatives had to be presented to the Governor and Council merely for their perusal and proposals of amendment, but, in that year (1786), the constitution was changed and the relationship between the Governor and Council and the House of Representatives in the enactment of law, which was to continue until 1836, was established.¹⁹ The change was not made in 1793, as the Censors of 1834 seemed to think.

Thomas Chittenden was governor of the state from 1777 to 1797 with the exception of one year. He was a man of vigor and had an unusual capacity for leadership. Prior to his election as governor, he was President of the Council of Safety. "He had a peculiar tact in discovering the disposition of those with whom he conversed, by which he acquired an influence that enabled him to carry into effect any measures which he proposed." He "seldom attempted to induce any one to support any proposed measure by giving his own opinion, and supporting it by arguments, but by asking advice, and putting questions so adroitly as to elicit the desired answer. And thus each individual with whom he conversed had the vanity to believe that the governor was following his advice, that his opinion had prevailed, and he would support it with great earnestness."²⁰

The selection of Chittenden to be the chief executive of the state was doubtless a fortunate one, because, due probably to the troubled conditions of the time, the constitution was almost wholly ignored during the first seven years (1778-1785). In that period, Chittenden was the dominant figure in the government of the state. The lines of distinction between legislative and executive authority were probably not tightly drawn under such circumstances.²¹

Perhaps, in recognition of that fact, the convention of 1786 added a section to the constitution, providing that the "legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other."²²

The same convention incorporated in the constitution the provisions, defining the procedure in the passage of law, which the Censors of 1834 felt had been misinterpreted by the House of Representatives. The Censors of 1792, however, evidently felt that the interpretation adopted by the House of Representatives was correct, for it "regarded it an inconvenience to have all legislative powers vested in a single and numerous body. . ."²³ To alter this situation, they proposed the establishment of a senate and, to secure the adoption of their proposal, they used, as has already been shown, practically the same argument as that used by the Censors of 1834.²⁴ The Censors of 1813 likewise proposed a senate as a co-ordinate branch of the legislature in order to check "hasty and undue" exercise of authority.²⁵ Surely, if that check were already provided by explicit provision or by implied interpretation of the constitution, they would not have felt the necessity of setting up a new agency to accomplish that end. The arguments of *The Constitutionalist*, &c., and of Charles Marsh, already referred to, in support of that proposed alteration certainly do not suggest or imply that the Executive Council did then or should under the existing constitution have any seriously controlling power in the passage of legislation. Marsh went so far as to say that by "the present constitution the Governor and Council can only propose amendments to a law, or at most suspend its operation for one year."²⁶

The Censors of 1820 felt that the only power under the constitution which the Governor and Council had over legislation was to concur or propose amendments. If they proposed amendments and they were not accepted by the House of Representatives, their only alternative was to suspend the bill in question until the next session of the House of Representatives. They, too, proposed a second

chamber in order to provide a check upon the House of Representatives.²⁷ In a report of one of the committees of the Council of Censors of 1827, the conflict between the Executive Council and the House of Representatives is described. It speaks of the conflict as one "which has for some time existed" and describes an incident which happened in 1825 to illustrate the nature of the conflict. The House of Representatives passed a bill to which the Governor and Council proposed amendments. The House refused to accept the amendments proposed and the Governor and Council suspended the bill until the next session. At the next session, the House repassed the bill and declared it law. The Governor and Council then adopted a resolution asserting that it was contrary to the constitution for the House to pass any bill into law without the concurrence of the Governor and Council and directed its secretary to keep suspended bills in his possession, subject to order of the Governor and Council at its next session.²⁸ In speaking of this incident, the Censors of 1834 said: "The issue was on the side of numbers—the House claimed it, and acted accordingly. The decision, as it now stands, is this: That no legislative authority whatever, express or implied, is granted by the constitution, to the Executive Council."²⁹

Daniel Chipman made a lengthy speech in the convention of 1836 when that body was in committee of the whole during the course of which he described the relationship existing between the House of Representatives and the Executive Council in the passage of laws throughout the history of the state. In the course of this speech, he said: "Numbers of the same men who framed our present constitution were members of the convention who adopted it, and constantly members of the Legislature for years afterwards. By this time those who have not had the means of knowing, are anxious to learn what construction these men put upon the constitution—how did the framers of that instrument interpret it? Well, then, from the year 1786 to the year 1826, a period of forty years, no bill ever became a law without the concurrence of the Governor and Council. Whenever a suspended bill again passed the House of Representatives, it was again sent to the Governor and Council as other bills."³⁰

A careful examination of the proceedings of the Governor and Council has failed to reveal evidence to support these statements. In fact, an act was passed into law by the House of Representatives on October 31, 1786, after the Council had refused to concur in its passage. This was approximately four months after the convention

met which adopted the amendments to the constitution.³¹ During the twelve years following the adoption of the amendments in 1786, the Council suspended seven bills. Of these, five were apparently enacted into law at the session following the one in which they were suspended. There is no evidence that any one of these seven bills was ever presented to the Governor and Council for concurrence during the session following the one in which it was suspended.³² It appears that one of these bills did find its way to the Council in 1790, but the Council took no action relative to it, except to propose a substitute measure to the House, after taking notice of the fact that the suspended bill had already become law.³³ A bill relating to the temporary seats of the government was suspended in 1795³⁴ and enacted into law in 1796 over the protest of the Governor and Council. Apparently, the Council was merely notified by the clerk of the House that this bill had been passed into law.³⁵

There were no bills suspended by the Council in the twelve years between 1800 and 1813. In the latter year, there was a considerable amount of strife between the House and Council. In the election of that year, a majority of Federalists were elected to the House, while all of the Jeffersonian Republican candidates for the Council, except one, received a plurality of the votes cast. A plurality was sufficient to elect Councillors but not to elect the Governor or Lieutenant Governor. The Federalists were opposed to the war with England, while the Jeffersonian Republicans favored it. A number of soldiers had voted in the election in Colchester, as they were permitted to do by state law, but the Federalist-controlled canvassing committee threw out the votes of Colchester and their report was accepted in joint committee of the House and Council. The result was that the Federalists were able to elect the Governor, the Lieutenant Governor, and four Councillors. The Jeffersonian Republicans, nevertheless, had a majority, eight to six, in the Council for that year.³⁶

The first bill suspended in 1813 was an act to repeal an act to prevent intercourse with the enemy. In commenting on this incident, Walton said: "The yeas were of the war party, Lt. Gov. Chamberlain excepted, and the nays were all opponents of the war. The State non-intercourse act of 1812 was rigorous in its provisions, and rigorously executed in several instances. The Council of Censors of 1813, the members all being Federalists, condemned the act as unconstitutional: First, in violation of the constitution of the

United States, which gives to Congress the power to regulate commerce with foreign nations, and captures by land and water; and second, in violation of the constitution of the State, particularly the provisions on the right of trial by jury, and against unreasonable searches. Therefore, on the 25th of Oct. 1813, the Council sent a rescript to the General Assembly recommending a 'speedy and unqualified repeal of said act,' and on the same day the Assembly passed a repealing bill by yeas 159 and nays 19. This vote shows that at least fifty of the war party voted for repeal.—See printed *Assembly Journal* of 1813, pp. 50-53. The courts condemned the act, and military officers who had enforced it were subjected to costs and penalties, which the State refunded."³⁷

In the period, beginning in 1798 and ending in 1825, any suspended bills which the House desired to pass into law at the session following their suspension by the Council were repassed by the House and sent to the Council. The latter body allowed them to pass, if the House insisted. Only one bill was ever suspended twice by the Council. This was a bill to abolish imprisonment for debt. It was suspended in 1831 and in 1835. It finally became law in 1838. It is to be noted, however, that four years intervened between the two suspensions. After 1825, suspended bills were not submitted to the Council for its consideration."³⁸

In speaking of the conflict between the House and Council in 1826 over the passage of a suspended bill by the House without referring it to the Council, Walton said: "At the preceding session the House had passed a bill which the Council suspended until the session of 1826. At the last named session the House repassed the same bill and declared it to be a law without the concurrence of the Governor and Council. The custom had been to send such bills to the Council for concurrence, which had been granted as a matter of course. . . . But were the Council not to concur in a suspended bill, nevertheless, on its re-enactment by the House, it would become a law. . . . The House had simply neglected a courtesy which had been customary."³⁹

It seems apparent, therefore, that Daniel Chipman was misinformed as to the interpretation which the members of the House of Representatives in the years immediately following the alteration of the constitution in 1786 placed on those provisions of the constitution which defined the relation between the House and Council in the passage of law.

NUMBER OF BILLS SUSPENDED BY GOVERNOR AND COUNCIL*

Year	Number Suspended	Volume and Page Reference in Governor and Council	Number of These Bills Enacted in Succeeding Session	Volume and Page Reference in Governor and Council	Page Refer- ence in Laws of Vermont for Year of Enactment
1789	3	III, 200, 201	3	III, 212	1, 8
1793	3	IV, 5, 58, 59	1		3
1795	1	IV, 102	1	IV, 123	49
1797	2	IV, 153, 167	2	IV, 188, 202	3, 25
1799	2	IV, 240, 255			
1800	1	IV, 287, 288			
1813	2	VI, 36, 55	1		8
1817	1	VI, 206			
1818	1	VI, 244	1	VI, 268	52
1820	2	VI, 340, 341, 353			
1821	1	VI, 416			
1822	3	VII, 44-45, 55, 62	2		10, 39
1823	4	VII, 103, 106, 107	1		15
1824	2	VII, 152, 154			
1825	1	VII, 199	1	VII, 225-251	
1826	3	VII, 244, 250, 251	1		3
1827	1	VII, 297			
1828	1	VII, 342	1		8
1830	1	VII, 431	1		34
1831	3	VIII, 41, 42, 52			
1834	2	VIII, 211, 213	2		30, 32
1835	3	VIII, 260, 261			

* See *Governor and Council*, ed. and pub. by Walton; *Laws of Vermont*, 1790; *ibid.*, 1794 (Bennington); *ibid.*, 1796 (Bennington, 1796); *ibid.*, 1798 (Bennington, 1799); *ibid.*, 1800 (Bennington); *ibid.*, 1814 (Windsor); *ibid.*, 1818 (Windsor); *ibid.*, 1819 (Rutland); *ibid.*, 1821 (Middlebury); *ibid.*, 1822 (Poultney, 1822); *ibid.*, 1823 (Bennington); *ibid.*, 1824 (Bennington); *ibid.*, 1827 (Woodstock, 1827); *ibid.*, 1829 (Woodstock, 1829); *ibid.*, 1831 (Middlebury, 1831); *ibid.*, 1835 (Montpelier, 1835).

These facts show that the Censors of 1834 were in error in their interpretation of what was intended by those who wrote the existing constitution and by the House of Representatives. Moreover, if the Governor and Council had an absolute check on the passage of any bill through their power to suspend, then all of the arguments through the years for the establishment of a second chamber so as to provide a check upon the House of Representatives would never have been presented and certainly they would not have been necessary, and, if, as has been shown, the House still allowed the Governor and

Council to suspend bills for one year, as provided in the explicit wording of the constitution, then the Governor and Council did have some share in the passage of laws. They had a weak suspensory veto, but nothing more.

Bargaining for office very probably occurred in 1835 and in a number of the preceding years. The evidence was more complete in 1835. In that year, no candidate received a majority of the popular vote in the election for the office of governor. The election was thrown into a joint meeting of the House and Council and, as there were three political parties approximately equally represented in the House, the joint meeting, after struggling with the problem for twenty-four days, finally decided that it was impossible to secure an election. The result was that the Lieutenant Governor was allowed to serve out the term. A similar failure to elect a governor had occurred in four of the five preceding popular elections, but the joint meeting of House and Council had always been able to secure an election until 1835. This condition, due to the three-party system and eliminated by the voluntary withdrawal of the Anti-Masonic party after the election of 1835, gave the Council of Censors of 1834 a grievance which it could use as the basis for an argument in favor of the adoption of the bicameral system.⁴⁰

The newspapers of the state were unanimous for the adoption of the proposals of the Council of Censors of 1834 after November 1, 1835, but apparently indifferent to them prior to that time. *The Vermont Gazette*, the *Burlington Sentinel*, the *State Journal*, and the *Vermont Watchman and State Gazette* all urged their adoption, but not apparently until after November 1. The only argument which they used to support the proposals, however, was that they would eliminate bargaining for office, except that the *Burlington Sentinel* felt that, if there were any advantage in having a second chamber, then Vermont should not be satisfied with a "mere apology."⁴¹

In this connection, it is significant that the Council of Censors of 1834 submitted its proposed amendments to the people of the state on January 15, 1835, and issued the call for the convention on the following day. The session of the House of Representatives of that year (1835) began on October 8 and ended on November 11. The delegates to the convention were elected on November 17 and the convention met on January 6, 1836. The delegates were, therefore, elected at a time when the newspapers of the state were condemning

bargaining for office in the legislature and when the people of the state were feeling keenly the failure of the Joint Committee to elect a governor.⁴²

It is nevertheless true that the first five amendments, which presumably the Council of Censors formulated in an effort to correct this condition by transferring the election of sheriffs, high bailiffs, state's attorneys, judges of probate, and justices of the peace from the Joint Committee to the people, were not adopted by the convention. But the convention did adopt the proposal to substitute a senate for the existing Executive Council. The result was that the Senate simply took the place of the Executive Council in the election of many state and county officials.⁴³

In substance, the amendments adopted by the convention of 1836 were merely those which made the Governor the chief executive of the state, abolished the Executive Council, and established the Senate as a co-ordinate branch of the General Assembly. The maximum number of members of the Senate and the minimum age for members of the Senate were each fixed at thirty. Senators were to be apportioned among the various counties on the basis of population, each county to have at least one. The wording of the article which defined the relationship between the two houses and the Governor in the passage of law is very similar to that of the corresponding portion of the constitution of the United States.⁴⁴

Very little information was available as to what was happening in the convention. Practically all of the important discussion occurred in committee of the whole. This is shown by the following editorial from the *Vermont Watchman and State Gazette* of January 12, 1836: "The Convention, after a long, elaborate, and able discussion, adopted the resolution for a Senate on Saturday night, and adjourned to Monday. A full report of this debate ought to go out to the People, and relying upon the assistance of the speakers, we hope to be able to send out such a report. Perhaps we shall be disappointed; we do not promise our readers absolutely in the matter."⁴⁵

In the same paper on January 19, there appeared an article which showed that Mr. Pomeroy from Burlington brought out in the course of the debate in the convention that, although the vote on the question of adopting the amendment providing a senate had been close, those voting for the change represented 177,964 people, while those who opposed the change represented only 92,123 people. Mr. Pomeroy indicated that, because of this fact, the credentials of the

members of the convention ought not to be gone into with a view to voting again on the question.⁴⁶ This indicates that, in voting on the issue, there really was a division between the large and small towns on the proposal to establish a senate. As a matter of fact, there was a considerable amount of feeling that the large towns had packed the convention. It was repeatedly and heatedly contended that some of the members who voted for the Senate were not qualified to sit in the convention. The president of the convention (Fitch) stated that he had voted for the adoption of a senate, but that he "would not stand by and permit a Constitution to be thus *smuggled* into existence." He said he understood that at least one, a certain banker, had voted for the proposal who should not have voted at all and intimated that that one had corruptly influenced others to vote the same way. Others, however, argued that the decision, once made, should be allowed to stand. The question of receiving the report of the credentials committee was tabled repeatedly. The report was finally presented to the convention on January 12. It was immediately laid on the table and a resolution adopted giving every one sitting in the convention a right to a seat therein. The report of the credentials committee showed that 77 of the members were without proper credentials and that the credentials of 24 of these were seriously inadequate. It was dated January 9, 1836, and had been tabled by the convention before the original vote on the adoption of a senate. The convention adopted the amendments proposing a senate on January 9, by a vote of 116 to 113, and refused to reconsider that vote on January 11, by a vote of 119 to 110.⁴⁷

A summary of the arguments advanced by the various Councils of Censors (and their members) shows that they urged the adoption of the bicameral system on the ground (a) that the tendency of the legislature toward hasty and unwise action would be checked,⁴⁸ (b) that Vermont would be adopting a system which had been in successful operation in all of the states and in the United States for years,⁴⁹ (c) that a more equitable distribution of representation in the legislative body of the state would be secured,⁵⁰ (d) that the bicameral system would eliminate the "baneful effects of heat and party spirit,"⁵¹ (e) that a shorter ballot would be secured if the bicameral system were adopted,⁵² (f) that the unicameral system was inherently vicious,⁵³ (g) that the conflict between the Executive Council (Governor and Council) and the House of Representatives would be eliminated by the establishment of a senate,⁵⁴ (h) that the superiority

of the bicameral system had been proved by the experience of all ages,⁵⁵ (i) that a simple form of governmental organization, such as that provided by the unicameral system, was not suited to a complex civilization,⁵⁶ and (j) that the framers of the existing constitution had intended that the Executive Council have an absolute check upon, and complete equality with, the House of Representatives in the exercise of legislative authority and that this authority had recently been usurped by the House of Representatives.⁵⁷

To these the newspapers of the state added the argument that the proposed amendments ought to be adopted in order to eliminate log-rolling and bargaining for public offices.⁵⁸

Under these circumstances and for these reasons, Vermont adopted the bicameral system. It remains to be seen how the arguments advanced by the proponents of that system stood the test of actual use.

NOTES

1. Hiland Hall, *History of Vermont* (Albany, 1865), p. 268; Daniel Chipman, *Memoir of Thomas Chittenden* (Middlebury, 1849), pp. 28-50; Benjamin H. Hall, *History of Eastern Vermont* (New York, 1858), p. 567; Walter H. Crockett, *History of Vermont* (5 vols., New York, 1921), II, pp. 203-217; Frank G. Bates and Oliver P. Field, *State Government* (New York, 1928), pp. 465-476.

2. Chipman, *Memoir of Thomas Chittenden*, pp. 33-44; Bates and Field, *State Government*, p. 471; *Records of the Governor and Council of the State of Vermont*, ed. and pub. by Authority of the State by E. P. Walton (8 vols., Montpelier, 1873-1880), III, pp. 35-36, 68; *The New England States*, ed. by William T. Davis (4 vols., Boston, 1897), III, p. 1395.

3. Chipman, *Memoir of Thomas Chittenden*, pp. 33-39.

4. *Ibid.*, pp. 39-44. The Governor and Council is sometimes referred to as the Council or as the Executive Council. When either of these terms is used in this thesis, it is to be understood that it is the Governor and Council to which reference is made unless otherwise specifically indicated.

5. Bates and Field, *State Government*, p. 471.

6. *Governor and Council*, ed. and pub. by Walton, III, pp. 35-36, 68; *The New England States*, ed. by Davis, III, p. 1395.

7. Chipman, *Memoir of Thomas Chittenden*, pp. 48-50; *The New England States*, ed. by Davis, III, p. 1396. Each of the conventions called by the Councils of Censors prior to the convention of 1857 consisted of one representative from each inhabited town in the state. See *A List of the Principal Civil Officers of Vermont from 1777 to 1918*, ed. by John M. Comstock, under direction of the Secretary of State (St. Albans, 1918), p. 277.

8. *The New England States*, ed. by Davis, III, pp. 1414-1419; Crockett, *History of Vermont*, V, p. 16. By 1814, the Supreme Court had begun to

exercise the power of judicial review. See *Dupy v. Wickwire* (1814), 1 D. Chipman 237; *Bates v. Kimball* (1824), 2 D. Chipman 77; *Ward v. Barnard* (1825), 1 Aikens 121.

9. *The Constitution of the State of Vermont as Revised by Convention in June 1786* (Windsor, 1786), p. 14; *The New England States*, ed. by Davis, III, p. 1401.

10. *Governor and Council*, ed. and pub. by Walton, III, p. 128 n.; *ibid.*, IV, p. 266; *Laws of the State of Vermont*, 1797 (Rutland, 1798), pp. 69-70; *ibid.*, 1801 (Windsor, 1801), p. 6; *Journal of the General Assembly of Vermont*, 1794 (Bennington), pp. 16-17; *ibid.*, October, 1799 (Rutland, 1799), pp. 16-18; *ibid.*, 1803 (Windsor, 1804), pp. 30-32.

11. *Governor and Council*, ed. and pub. by Walton, II-VIII. For a list of the standing committees for 1835, see *ibid.*, VIII, pp. 224-225.

12. *The New England States*, ed. by Davis, III, p. 1401.

13. *Proceedings of the Council of Censors*, 1792 (Rutland, 1792), pp. 3-5, 13-20; *The New England States*, ed. by Davis, III, pp. 1398-1406; *Address of the Council of Censors* (Bennington, 1800), p. 3; *ibid.*, 1806 (Bennington, 1807), p. 2; *ibid.*, 1813 (Montpelier, 1813), pp. 3-4; *Journal of the Council of Censors*, 1813-1814 (Middlebury, 1814), p. 53; *ibid.*, 1820-1821 (Danville, 1821), pp. 48-63; *ibid.*, 1827 (Montpelier, 1828), pp. 19, 43-47; *Journal of the Convention of Vermont*, 1814 (Danville, 1814), pp. 8-13, 17-18; *ibid.*, 1822 (Burlington, 1822), pp. 12-15, 35-38; *ibid.*, 1828 (Royalton, 1828), pp. 10-20; *ibid.*, 1836 (St. Albans, 1836), pp. 1-117.

14. *Proceedings of the Council of Censors*, 1792, pp. 3-5, 13-20; *The New England States*, ed. by Davis, III, pp. 1398-1406; *Address of the Council of Censors of 1799*, p. 3; *ibid.*, 1806, p. 2; *ibid.*, 1813, pp. 3-4; *Journal of the Council of Censors*, 1813-1814, p. 53; *ibid.*, 1820-1821, pp. 48-63; *ibid.*, 1827, pp. 19, 43-47; *Journal of the Convention of Vermont*, 1814, pp. 8-13, 17-18; *ibid.*, 1822, pp. 12-15, 35-38; *ibid.*, 1828, pp. 10-20; *ibid.*, 1836, pp. 1-117.

15. *Ibid.*

16. Charles Marsh, *An Essay on the Amendments proposed to the Constitution of the State of Vermont by the Council of Censors*, 1814 (Hanover, 1814), pp. 6-19; The Council of Censors of 1813, *The Constitutionalist*, &c. (Montpelier, 1814), p. 3; *The New England States*, ed. by Davis, pp. 1404-1406; *Vermont Republican*, January 17, 1814, Windsor, Vermont; *Green Mountain Farmer*, February 8, 1814, Bennington, Vermont; *ibid.*, March 22, 1814; *The Vermont Gazette*, January 29, 1822, Bennington, Vermont; *ibid.*, May 27, 1828; *ibid.*, June 17, 1828; *The Bellows Falls Intelligencer*, March 11, 1822, Bellows Falls, Vermont; *Journal of the Convention of Vermont*, 1814, pp. 17-18; *ibid.*, 1822, pp. 35-38; *ibid.*, 1828, pp. 15-20; *Journal of the Council of Censors*, 1820-1821, pp. 49-50; *ibid.*, 1827, pp. 46-47.

17. For an analysis of the arguments advanced by the Councils of Censors and others, see *infra*, pp. 26-27.

18. Chipman, *Memoir of Thomas Chittenden*, p. 33; *Journal of the Convention of Vermont*, 1836, p. 17.

19. *The New England States*, ed. by Davis, III, p. 1401; *Journal of the Convention of Vermont*, 1836, p. 20.
20. Chipman, *Memoir of Thomas Chittenden*, pp. 19-21.
21. *The New England States*, ed. by Davis, III, p. 1398.
22. *The Constitution of the State of Vermont*, as revised by the Convention of 1786, p. 14.
23. *The New England States*, ed. by Davis, III, p. 1402.
24. *Proceedings of the Council of Censors*, 1792, pp. 3-5.
25. *An Address of the Council of Censors*, 1813, p. 3.
26. Marsh, *An Essay on the Amendments . . . to the Constitution . . . of Vermont . . .* 1814, pp. 6-19.
27. *Journal of the Council of Censors*, 1820-1821, pp. 48-49.
28. *Ibid.*, 1827, p. 19; *Governor and Council*, ed. and pub. by Walton, VII, pp. 199, 225, 233, 245, 251; *Journal of the Convention of Vermont*, 1836, p. 27.
29. *Journal of the Convention of Vermont*, 1836, p. 28. As a matter of fact the Executive Council suspended three bills in 1835. See *Laws of Vermont*, 1835, pp. 150-151.
30. Daniel Chipman, *Speech delivered in Convention at Montpelier on January 6, 1836* (Middlebury, 1837), p. 7.
31. *Governor and Council*, ed. and pub. by Walton, III, pp. 110, 115-116.
32. *Ibid.*, III, IV.
33. *Ibid.*, III, p. 212.
34. *Ibid.*, IV, p. 102.
35. *Ibid.*, IV, p. 123.
36. *Ibid.*, VI, pp. 3-16.
37. *Ibid.*, p. 36.
38. *Ibid.*, III-VIII; *Laws of Vermont*, 1838 (Montpelier, 1838), p. 8.
39. *Governor and Council*, ed. and pub. by Walton, VII, p. 233.
40. *Vermont Watchman and State Gazette*, January 5, 1836, Montpelier, Vermont; *Journal of the Convention of Vermont*, 1836, pp. 10-17, 93; *Governor and Council*, ed. and pub. by Walton, VII, pp. 347, 392-395; *ibid.*, VIII, pp. 5-7, 57-60, 105-106, 162-164, 215-245. For a detailed discussion of this political party development, see *infra*, pp. 40-41.
41. Chipman, *Speech in Convention at Montpelier*, 1836, pp. 14-17; *The Vermont Gazette*, November 3, 1835; *Burlington Sentinel*, November 27, 1835, Burlington, Vermont; *State Journal*, January 5, 1836, Montpelier, Vermont; *Vermont Watchman and State Gazette*, January 5, 1836, Montpelier, Vermont; *Journal of the Convention of Vermont*, 1836, pp. 10-17, 93.
42. *Journal of the Convention of Vermont*, 1836, pp. 3, 10; *Proceedings of the Council of Censors of Vermont*, 1834 (Middlebury, 1835), p. 53; *Journal of the Assembly of Vermont*, 1835 (Middlebury, 1835), pp. 1, 229.
43. *Journal of the Convention of Vermont*, 1836, pp. 10, 117.
44. *Ibid.*, pp. 11-17, 93. See also Section VII of Article I of the *Constitution of the United States* and Section 22 of Chapter II of the *Constitution of Vermont*, as established by the Convention of 1836. The latter may be found on page 117 of the *Journal of the Convention of Vermont*, 1836.

45. *Vermont Watchman and State Gazette*, January 12, 1836.
46. *Ibid.*, January 19, 1836.
47. *Ibid.*, January 12, 1836; *Journal of the Convention of Vermont*, 1836, pp. 41-44, 49-51, 61; *The Vermont Chronicle*, January 14, 1836, Windsor, Vermont.
48. Used by the Censors of 1792, 1813, 1820, 1827, and 1834. They held that this argument was proved by the instability of the legislation enacted by the one-chambered body, as shown by the fact that an excessive number of acts amendatory of other acts were to be found on the statute books of the state. See *Proceedings of the Council of Censors of the State of Vermont*, 1792, pp. 3-5; *The New England States*, ed. by Davis, III, pp. 1402, 1405; *An Address of the Council of Censors to the People of Vermont*, 1813, pp. 3-4; Council of Censors of 1813, *The Constitutionalist, &c.*, pp. 8-17; Marsh, *An Essay on the Amendments Proposed to the Constitution of the State of Vermont* . . . 1814, pp. 6-8; *Journal of the Council of Censors*, 1820-1821, pp. 49, 62-63; *ibid.*, 1827, pp. 46-47; *Journal of the Convention of Vermont*, 1836, pp. 23-27.
49. Used by the Censors of 1813, 1820, 1827, and 1834, though only in a modified form in 1820. In the proposed amendment of that year, the scheme for the distribution of the membership of the two houses was essentially the same as that provided in the federal constitution for the Congress of the United States. This may possibly account for the fact that the Censors of 1820 did not refer to the United States as having a bicameral system in successful operation. See *Journal of the Convention of Vermont*, 1814, pp. 8, 9, 10, 13; Council of Censors of 1813, *The Constitutionalist, &c.*, pp. 8-15; *Journal of the Council of Censors*, 1820-1821, p. 49; *ibid.*, 1827, pp. 46-47; *Journal of the Convention of Vermont*, 1836, pp. 23-25, 29-30.
50. Used by the Censors of 1792, 1813, 1820, and 1834. See *Proceedings of the Council of Censors of the State of Vermont*, 1792, pp. 3-5; *The New England States*, ed. by Davis, III, pp. 1402, 1405; Marsh, *An Essay on the Amendments Proposed to the Constitution of the State of Vermont* . . . 1814, pp. 6-8; *An Address of the Council of Censors to the People of Vermont*, 1813, pp. 3-4; *Journal of the Council of Censors*, 1820-1821, pp. 49-50, 62-63; *Journal of the Convention of Vermont*, 1836, pp. 23-25. Some further light may possibly be thrown on the motives which actuated the Councils of Censors in so persistently advocating the establishment of a senate by the fact the members of that body usually came from towns which were more populous than the average. For instance, the Censors of 1834 came from thirteen towns which, according to the census of 1830, had an average population of 2183, while the average population of the towns of the state was less than 1225. See *A List of the Principal Civil Officers of Vermont from 1777 to 1918*, ed. by Comstock, pp. 275-276; *Fifth Census of the United States*, 1830, pp. 30-35.
51. Used by the Censors of 1813. See Marsh, *An Essay on the Amendments Proposed to the Constitution of the State of Vermont* . . . 1814, pp. 6-8.
52. Used by the Censors of 1813 and 1827. See *Journal of the Council of Censors*, 1813-1814, p. 53; *ibid.*, 1827, pp. 46-47.
53. Used by the Censors of 1813 and 1834. The Censors of 1834 used

somewhat different language, holding that the unicameral scheme always tended to produce anarchy. See Council of Censors of 1813, *The Constitutionalist*, &c., pp. 8-15; *Journal of the Convention of Vermont*, 1836, pp. 23-25.

54. Used by the Censors of 1827 and 1834. See *Journal of the Council of Censors*, 1827, pp. 46-47; *Journal of the Convention of Vermont*, 1836, pp. 23-25.

55. Used by the Censors of 1813 and 1827. See *An Address of the Council of Censors to the People of Vermont*, 1813, pp. 3-4; *Journal of the Council of Censors*, 1827, pp. 46-47.

56. Used by the Censors of 1834. See *Journal of the Convention of Vermont*, 1836, pp. 23-25.

57. Used by the Censors of 1827 and 1834. See *Journal of the Council of Censors*, 1827, pp. 46-47; *Journal of the Convention of Vermont*, 1836, pp. 23-25; Chipman, *Speech delivered in Convention at Montpelier*, 1836, p. 7.

58. *The Vermont Gazette*, November 3, 1835 (This article was signed by "A Looker-on in Venice"); *Vermont Watchman and State Gazette*, January 5, 1836.

CHAPTER III

AN ANALYSIS OF VERMONT'S UNICAMERAL SYSTEM IN OPERATION

IN order to estimate the value of the unicameral legislature, various tests have been applied to the results obtained in Vermont. The record of the legislature of Vermont in the ten years before the change (1826-1836) and in the ten years after the change (1836-1846) has been studied and the results compared. Where reliable materials are available, the record of the bicameral legislature of New Hampshire has been compared with that of the unicameral legislature of Vermont in the ten years before the change (1826-1836).¹

The tests applied in the determination of these relative values fall into five groups: (a) qualifications of members of the legislature, (b) length of sessions, (c) extent to which each house of the bicameral legislature exerted a check upon the other in the enactment of law, (d) the stability of statutory law, and (e) the cost of government.²

The first three of these, which may be classed as tests whose aim is, in this case, to determine by comparison the exact nature of Vermont's unicameral legislature when in actual operation, are considered in this chapter. The last two (those dealing with the stability of statutory law and the cost of government), which may be classed as tests whose aim is, in this instance, to measure by comparison the tangible value of Vermont's unicameral legislature to the people of the state, will be treated in Chapter IV.

Adequate materials are not available for an analysis of the qualifications of the members of the legislature of New Hampshire in the period covered. This is likewise true for Vermont to a considerable extent. However, reliable data, covering the ages and legislative experience of the members of the Vermont legislature, are available.³

An analysis of the ages of the members of the House of Representatives discloses the facts shown in the following table:

AVAILABLE AGES—HOUSE OF REPRESENTATIVES OF VERMONT

1826-1835				1836-1845			
Year	No. of Ages Available	No. of Ages Missing	Per- centage of Ages Available	Year	No. of Ages Available	No. of Ages Missing	Per- centage of Ages Available
1826	180	36	83.3	1836	190	35	84.4
1827	172	46	78.9	1837	196	30	86.7
1828	181	46	79.7	1838	198	33	85.7
1829	190	33	85.2	1839	200	30	87.0
1830	180	39	82.2	1840	206	28	88.0
1831	177	38	82.3	1841	193	34	85.0
1832	166	49	77.2	1842	194	37	84.0
1833	195	32	85.5	1843	179	37	82.9
1834	172	43	80.0	1844	168	36	82.4
1835	177	40	81.5	1845	164	33	83.2

The following figures show the extent of the available data dealing with the ages of the members of the Vermont Senate in the period, 1836-1845:

AVAILABLE AGES—SENATE OF VERMONT

Year	No. of Ages Available	No. of Ages Missing	Percentage of Ages Available
1836	29	1	96.7
1837	28	2	93.3
1838	30	0	100.0
1839	28	2	93.3
1840	29	1	96.7
1841	30	0	100.0
1842	30	0	100.0
1843	29	1	96.7
1844	28	2	93.3
1845	29	1	96.7

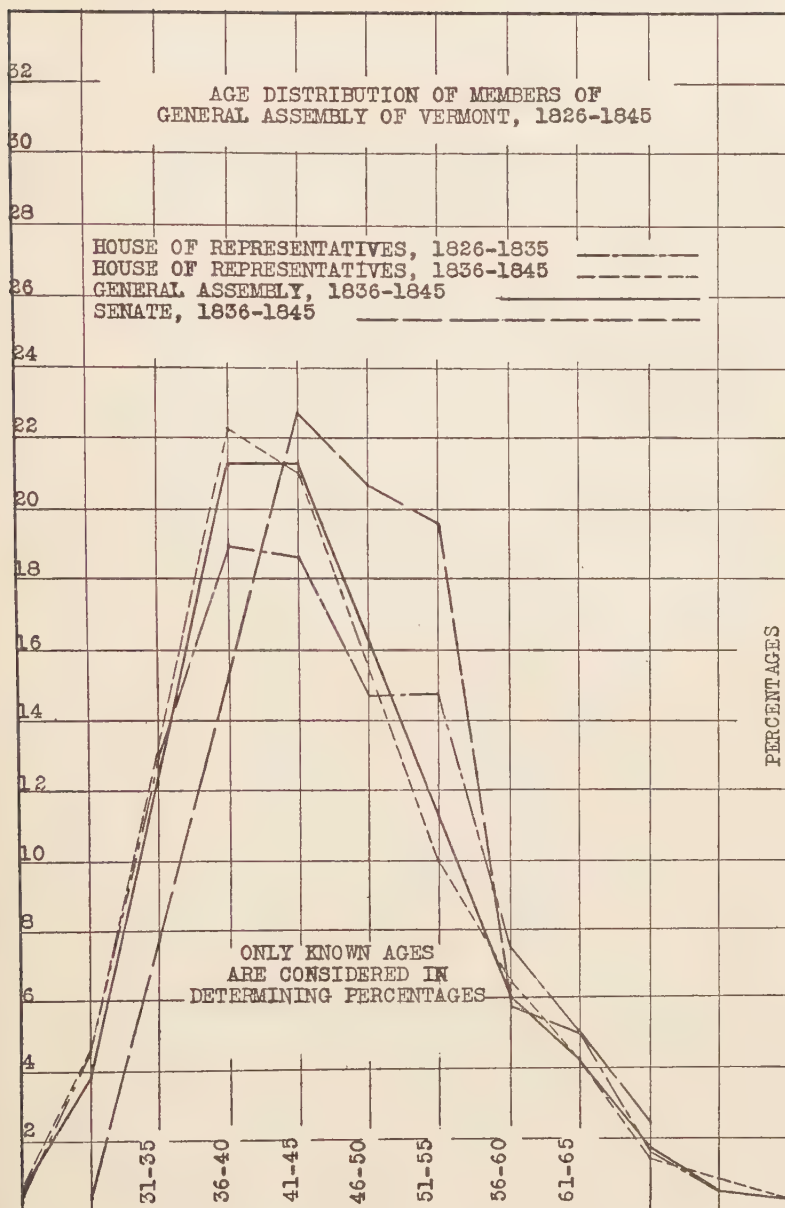
The age distribution of the members of the House of Representatives is shown by the following table:

Age Group	1826-1835		1836-1845	
	No. of Members	Percentage of Known Ages	No. of Members	Percentage of Known Ages
21-25	5	.28	9	.48
26-30	78	4.36	82	4.35
31-35	249	13.91	270	14.31
36-40	348	19.44	419	22.21
41-45	335	18.71	396	20.99
46-50	260	14.52	287	15.21
51-55	261	14.58	187	9.91
56-60	135	7.54	116	6.15
61-65	86	4.80	84	4.45
66-70	27	1.51	27	1.43
71-75	6	.34	8	.42
76-80	0	.00	3	.16

The age distribution of the members of the Senate in the period, 1836-1845, is shown by the following table:

Age Group	Number of Members	Percentage of Known Ages
26-30	1	.35
31-35	23	7.94
36-40	45	15.53
41-45	66	22.77
46-50	60	20.70
51-55	57	19.67
56-60	17	5.87
61-65	14	4.83
66-70	7	2.42

Curves based on these figures are shown on page 35.



A similar analysis of the data relating to the amount of legislative experience of the members of the House of Representatives of Vermont shows the facts given in the following table:

LEGISLATIVE EXPERIENCE—HOUSE OF REPRESENTATIVES
OF VERMONT

Year	Number of Members Attending	Number with Previous Legislative Experience	Percentage with Previous Legislative Experience
1826	216	144	66.7
1827	218	155	71.1
1828	227	142	62.6
1829	223	148	66.4
1830	219	147	67.1
1831	215	138	64.2
1832	215	130	60.5
1833	228	139	61.0
1834	215	135	62.8
1835	217	126	58.1
1836	225	139	61.8
1837	226	129	57.1
1838	231	136	58.9
1839	230	140	60.9
1840	234	136	58.1
1841	227	127	55.9
1842	231	134	58.0
1843	216	108	50.0
1844	204	104	51.0
1845	197	94	47.7

The corresponding figures relating to the legislative experience of the members of the Senate of Vermont are shown in the following table:

LEGISLATIVE EXPERIENCE—THE SENATE OF VERMONT

Year	Number of Members Attending	Number with Previous Legislative Experience	Percentage with Previous Legislative Experience
1836	30	20	66.7
1837	30	25	83.3
1838	30	26	86.7
1839	30	25	83.3
1840	30	24	80.0
1841	30	25	83.3
1842	30	23	76.7
1843	30	25	83.3
1844	30	24	80.0
1845	30	22	73.3

Curves based on these figures are shown on page 38.

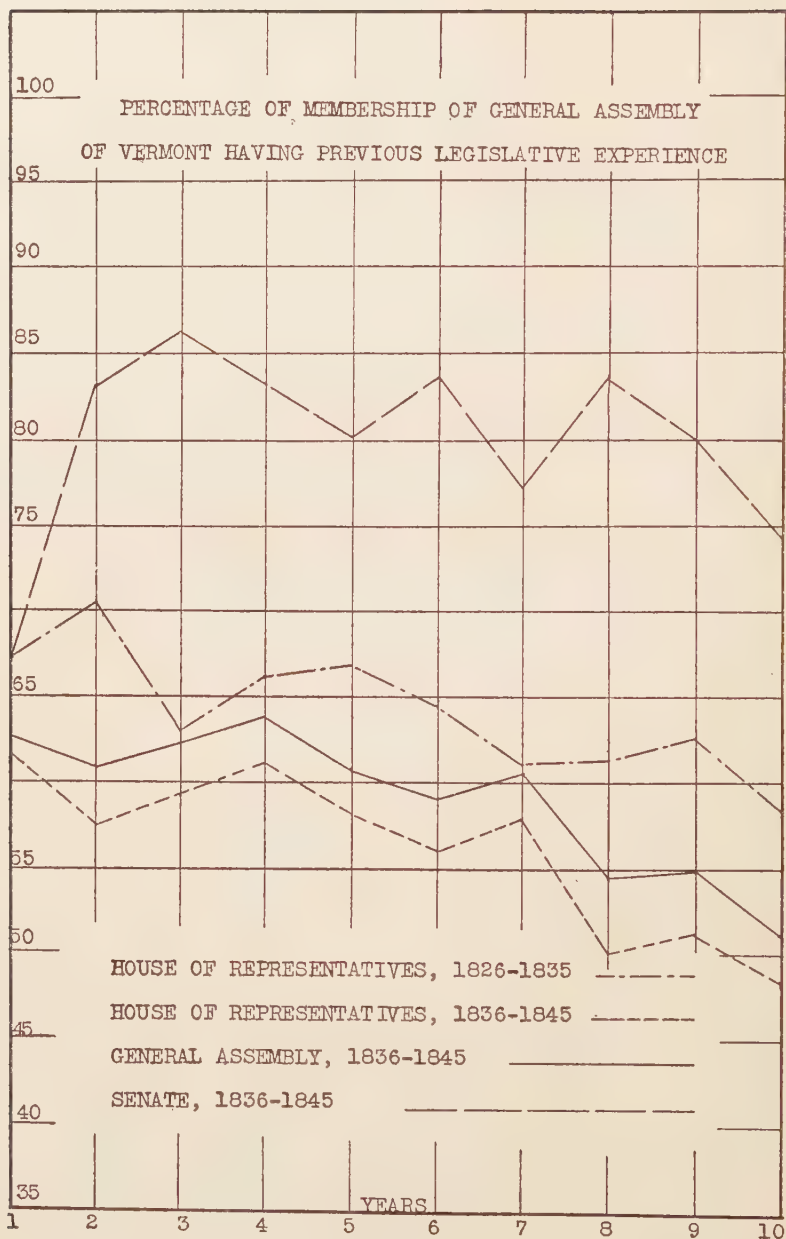
The average age of those whose ages are known is as follows:

House of Representatives, 1826-1835.....	44.6
House of Representatives, 1836-1845.....	43.8
Senate, 1836-1845	46.7
General Assembly (both houses), 1836-1845.....	44.2

The average number, expressed in percentages, having previous legislative experience is as follows:

House of Representatives, 1826-1835.....	64.0
House of Representatives, 1836-1845.....	56.1
Senate, 1836-1845	79.7
General Assembly, 1836-1845.....	58.9

As would be expected, the age curves tend to follow the general outline of a normal distribution curve. In all cases there seems to have been a greater tendency to bring in extreme old age rather than extreme youth. This is, doubtless, in part due to the fact that the minimum age limits were fixed by law, for the House of Representatives, at 21 and, for the Senate, at 30. It should be noticed, however, that the curve for the House of Representatives of 1826-1835 (the unicameral body) tends slightly less in the direction of the ex-



treme ranges than does that of the House of Representatives of 1836-1845 or that of the General Assembly of 1836-1845. If we may accept the opinion of the psychologist⁴ that before 20 is growth and after 40, except for brain workers whose decline may not begin until 50 or possibly later in some cases, is decline and that between these limits is the real period of productive effort, the greatest presumably being somewhere above the minimum limit (20) and below the maximum limit, then, on the whole, the age distribution of the unicameral legislature of Vermont is very slightly better than that of the bicameral legislature. The curve for the Senate shows less tendency toward extremes in age than any of the others and should be better for that reason than any of the others. However, 76.3 per cent of the members of the Senate whose ages are known were over 40 years of age. There is a possibility, of course, that this is compensated for by a comparatively heavy percentage of brain workers. There is some evidence of a tendency for younger men to be elected to the House and older men to the Senate after the change to the bicameral system. On the whole, it seems evident that there is little advantage for either the unicameral or bicameral system on the question of ages.

Turning to the question of legislative experience, we find that the Senate had a decided advantage over the House of Representatives both before and after the change to the bicameral system. The House of Representatives before the change had a decided advantage over the one after the change and almost an equal advantage over the General Assembly after the change. The percentages showing these relationships are as follows:

House of Representatives, 1826-1835.....	64.0
House of Representatives, 1836-1845.....	56.2
General Assembly, 1836-1845.....	58.9
Senate, 1836-1845	79.7

The superiority of the Senate in this respect is very probably due to the fact that the number of members of the Senate is very small, as compared with the House of Representatives, but there seems to be no way of determining to what extent the advantage of the unicameral body over the bicameral legislature may be due to inherent superiority and to what extent to assimilation of the dogma of Jacksonian Democracy.

The sessions of the unicameral legislature of Vermont seem to

have been longer than were those of the bicameral body which succeeded it. This is true at least in the period studied. The legislative sessions do not, in any instance, seem to have been excessive. In the period, 1826-1835, the House of Representatives was in session 301 days, while, in the following ten years, the General Assembly was in session only 285 days, Sundays and holidays being included in both cases. The length of these sessions is shown in the following table:⁵

Year	Beginning Date	Ending Date	Session Days
1826	October 12	November 16	36
1827	October 11	November 15	36
1828	October 9	October 31	23
1829	October 8	October 30	23
1830	October 14	November 11	29
1831	October 13	November 10	29
1832	October 11	November 9	30
1833	October 10	November 8	30
1834	October 9	November 7	30
1835	October 8	November 11	35 301
1836	October 13	November 18	37
1837	October 12	November 2	22
1838	October 11	November 6	27
1839	October 10	November 19	41
1840	October 8	October 30	23
1841	October 14	November 11	29
1842	October 13	November 14	33
1843	October 12	November 2	22
1844	October 10	October 31	22
1845	October 9	November 6	29 285

It seems probable that the conflict between the Executive Council and the House of Representatives, prior to 1836, had some effect in lengthening the legislative session, but the political situation in the state also played a part. It will be observed that the sessions of this period were of greatest length in 1826 and 1827 when the conflict between these two bodies was at an acute stage and that, after 1829, the unicameral legislature had legislative sessions of greater average length than did the bicameral legislature in the ten years following 1835. The period between 1814 and 1830 was one of comparative harmony, so far as strife between political parties was concerned. The National Republicans were in the saddle. In 1829, the Anti-Masonic party placed a ticket in the field in the state election. It

played no considerable part in that campaign, but, beginning in 1830 and ending in 1835, there were three political parties in every election, the National Republican (replaced by Whig party after 1833), the Anti-Masonic, and the Jacksonian or Democratic. The result was that, except in 1833, the election of the Governor was always thrown into a joint session of the House and Council. It took five days in 1830, two days in 1831, six days in 1832, one day in 1834, and 24 days in 1835 for this body to secure an election. In addition to this, several ballots were usually required for it to elect a Lieutenant Governor. In 1835, the Joint Committee finally decided it was impossible to elect a Governor and the Lieutenant Governor was allowed to serve out the term. After 1835, the Anti-Masonic party dropped out of the field and the Whig party was dominant in the state until the organization of the Republican party in 1854, except in 1853, when the election was thrown into Joint Assembly of the two houses and the Democratic candidates were elected.⁶

Eliminating the two years (1826 and 1827) of serious conflict between the House and Council and deducting the 38 days consumed in electing governors, the average length of the legislative sessions in the last eight years of the unicameral legislature is found to be slightly less than 24 days. That these influences were highly important in securing increased length for the unicameral legislature of Vermont is further supported by the fact, as shown by the following table, that the average length of the legislative sessions of New Hampshire in the period, 1826-1835, was 37.5 days.⁷

LENGTH OF LEGISLATIVE SESSIONS OF NEW HAMPSHIRE

Year	Beginning Date	Ending Date	Session Days
1826	June 7	July 8	32
1827	June 6	July 7	32
1828	June 4	June 19	16
1828	November 19	January 3	46
1829	June 3	July 4	32
1830	June 2	July 3	32
1831	June 1	July 2	32
1832	June 6	June 23	18
1832	November 21	January 5	46
1833	June 5	July 6	32
1834	June 4	July 5	32
1835	June 3	June 27	25
			375

It may possibly be contended that, with increasing population, the problem of government must necessarily have been more difficult and the length of the legislative sessions ought gradually to have become greater, other things being equal. The validity of that argument can hardly be denied, but that tendency was probably fully counteracted by the fact, previously referred to, that the legislature in Vermont, no less than in other states, was gradually being pulled from its position of supremacy in state government and the extent of its job was consequently becoming less. It seems probable, therefore, that the decreased length of legislative sessions noticeable in Vermont after 1835 was due to the abolition of the Executive Council and to changes in political alignments rather than to the establishment of the bicameral system.

AMENDMENTS OF BILLS WHICH BECAME LAW IN THE GENERAL ASSEMBLY OF VERMONT, 1836-1845

Year	House Permanent Public		Senate Permanent Public		House Temporary Public		Senate Temporary Public		House Private		Senate Private	
	No. of Bills	No. of Amend.	No. of Bills	No. of Amend.	No. of Bills	No. of Amend.	No. of Bills	No. of Amend.	No. of Bills	No. of Amend.	No. of Bills	No. of Amend.
1836	26	10	17	4	8				65	13	32	3
1837	16	6	10	2	6	1	2	1	40	5	6	1
1838	23	8	10	6	3	1	1		34	3	16	3
1839	8	4	4		6		2		33	10	4	1
1840	18	9	7	2	6	2	1		32	5	3	
1841	24	5	10	3	4		3		30	1	4	
1842	29	10	18	1	6				21	3	9	2
1843	20	9	14	2	3				21	2	4	1
1844	16	7	12	2	3				11	2	4	1
1845	21	3	15		5	1			36	12	12	3
Totals	201	71	117	22	50	5	9	1	323	56	94	15

A study of the figures contained in the foregoing table, showing the number of bills (which finally became laws) of each house which were amended in the other house and based on data obtained from the journals of the two houses for the years, 1836-1845, will readily convince one that each house in the General Assembly of Vermont really functioned as a check upon the action of the other

in the passage of law. This conclusion is further supported by the figures, based on data obtained from the same sources, which are shown in the following table:

BILLS REJECTED BY EACH HOUSE OF GENERAL ASSEMBLY
OF VERMONT

Year	House Bills Rejected in Senate	Senate Bills Rejected in House
1836	22	14
1837	13	7
1838	27	6
1839	24	2
1840	16	6
1841	5	5
1842	13	12
1843	22	5
1844	15	6
1845	20	8
Totals	177	71

A summary of the figures in the two foregoing tables shows that 574 House bills and 220 Senate bills became law, 575 House bills and 220 Senate bills passed both houses,⁸ 132 House bills were amended by the Senate, 38 Senate bills were amended by the House, 177 House bills were rejected by the Senate, and 71 Senate bills were rejected by the House. In other words, of the 752 House bills which reached the Senate, 17.6 per cent were amended and 23.5 per cent were rejected by the Senate, while, of the 291 Senate bills which reached the House, 13.1 per cent were amended and 24.4 per cent were rejected by the House. Combined, these figures show that 41.1 per cent of the House bills which reached the Senate failed to pass the latter house and 37.5 per cent of the Senate bills which reached the House failed to pass that house in their original form.

The real value of a check upon the passage of law, however, is not determined really by the extent to which each house checks action by the other, but rather by the wisdom of the check exerted. A study of the bills rejected clearly shows that there is not one of them which might be classed as dangerous or seriously unwise. There is not one of them that would alter the form or seriously change the general policy of government. In general, they are the sort of bills

which were being enacted into law by the General Assembly. The wisdom of the check exerted by each house upon the other in the passage of law may, therefore, reasonably be doubted.

In conclusion, it may be pointed out that the tests applied to the unicameral legislature of Vermont in an effort to determine its exact nature when in actual operation do not give very satisfactory results. The age distribution for the unicameral legislature was approximately the same as that for the bicameral legislature which succeeded it in Vermont. The unicameral legislature contained a higher average of legislative experience than did the bicameral legislature, but the Senate of the bicameral legislature contained a much higher average of legislative experience than did the unicameral legislature. Too, the lower average in legislative experience of the bicameral legislature may have been due to the influence of Jacksonian Democracy rather than to any quality inherent in the unicameral legislature. The sessions of the unicameral legislature were longer than those of the bicameral legislature of Vermont and shorter than those of the bicameral legislature of New Hampshire, but the sessions of the unicameral legislature were probably made longer than they would otherwise have been by the conflict existing between the Executive Council and the House of Representatives and by the shifting alignment of political parties in the state. Also, the sessions of the New Hampshire legislature may have been made longer than they normally should have been by some changing political or other social condition. The two chambers of the bicameral legislature of Vermont really checked each other in the passage of law, but the bills which they rejected in that process would certainly not be styled radical or, indeed, seriously different from those which they were passing from year to year.

NOTES

1. In other words, the unicameral legislature of Vermont in its last ten years has been compared with the bicameral legislature of New Hampshire in the same ten-year period and with the bicameral legislature of Vermont in the succeeding ten years. In one case, the time element has been kept constant and, in the other, the environment has been kept as nearly constant as possible while allowing variation in the time element. In each case, the unicameral legislature has been compared with a bicameral legislature.

2. It should be pointed out that satisfactory New Hampshire data are available for only two phases of these comparisons, i.e., those dealing with the length of legislative sessions and the stability of statutory law.

3. All data, dealing with ages and legislative experience of Vermont legislators, are based on facts contained in *A List of the Principal Civil Officers of Vermont from 1777 to 1918*, ed. by Comstock.

4. Robert Sidney Ellis, *The Psychology of Individual Differences* (New York, 1928), pp. 241-244.

5. *Journal of the General Assembly of Vermont*, 1826 (Rutland, 1827), pp. 3, 175; *ibid.*, 1827 (Woodstock, 1828), pp. 1, 221; *ibid.*, 1828 (Woodstock, 1829), pp. 1, 168; *ibid.*, 1829 (Woodstock, 1830), pp. 1, 188; *ibid.*, 1830 (Woodstock, 1830), pp. 1, 193; *ibid.*, 1831 (Woodstock, 1831), pp. 1, 176; *ibid.*, 1832 (Danville, 1832), pp. 3, 170; *ibid.*, 1833 (Danville, 1833), pp. 1, 193; *ibid.*, 1834 (Rutland, 1834), pp. 1, 227; *ibid.*, 1835 (Middlebury, 1835), pp. 1, 229; *Journal of the Senate of Vermont*, 1836 (Montpelier, 1836), pp. 3, 122; *ibid.*, 1837 (Montpelier, 1837), pp. 3, 90; *ibid.*, 1838 (Montpelier, 1839), pp. 3, 102; *ibid.*, 1839 (Montpelier, 1839), pp. 7, 135; *ibid.*, 1840 (Montpelier, 1841), pp. 3, 96; *Journal of the House of Representatives of Vermont*, 1841 (Montpelier, 1841), pp. 3, 195; *ibid.*, 1842 (Montpelier, 1842), pp. 5, 244; *ibid.*, 1843 (Montpelier, 1844), pp. 5, 168; *ibid.*, 1844 (Montpelier, 1845), pp. 3, 160; *ibid.*, 1845 (Windsor, 1846), pp. 3, 242.

6. *Governor and Council*, ed. and pub. by Walton, VII, pp. 347, 392-395; *ibid.*, VIII, pp. 5-7, 57-60, 105-106, 162-164, 215-245.

7. *Laws of New Hampshire*, pub. by New Hampshire Historical Society (10 vols., Concord, 1904-1922), IX, pp. 484, 583, 711, 750; *ibid.*, X, pp. 8, 121, 185, 293, 349, 444, 528, 631.

8. One House bill which passed both houses was vetoed by the Governor. See *Journal of the House of Representatives of Vermont*, 1845, p. 228.

CHAPTER IV

EVALUATION OF RESULTS OBTAINED BY UNICAMERAL LEGISLATURE

AFTER all, it really did not make much, if any, difference to the average citizen of the state whether or not, through the adoption of the bicameral system, he secured a better age distribution or more legislative experience in the legislative body, shorter legislative sessions, or more bills amended or rejected in the enactment process, but it was vitally important that he get laws that were no worse, at least, than the laws enacted before the change and that the cost of government was not seriously increased by that change. The qualifications of legislators, the length of legislative sessions, and the number and effectiveness of the checks against hasty action in the interest of greater deliberation are important criteria in determining the quality of a legislature and, perhaps, in predicting what sort of results a legislature ought to produce, but they cannot be used in measuring the results obtained. In the last analysis, those results must be the determining factor in judging the quality of a legislature, for it does not make much difference how perfect a legislature is if it cannot produce good results. That legislature ought ordinarily to be best which can produce the best laws at the lowest cost.

The proponents of the bicameral system argued that the laws of the state were too unstable and pointed out, as evidence to support their contention, the frequent changes in the statutes. Their idea apparently was that, if adequately wise judgment had been exercised at the time of the enactment of the laws, such frequent changes would not have been necessary. They felt that the check which a second chamber would provide would insure more deliberation and wiser legislation and thus render the laws more stable.

In an effort to determine if the argument advanced by these proponents of the bicameral system be sound, the laws enacted by the General Assembly of Vermont in the period, 1826-1855, and by the General Court of New Hampshire in the period, 1826-1845, have been studied and all alterations, made within ten years after their enactment, of the laws of Vermont enacted in the years, 1826-

1845, or of the laws of New Hampshire enacted in the years, 1826-1835, have been carefully tabulated. In other words, each law of Vermont enacted in the twenty-year period, 1826-1845, has been followed through the statute books for ten years after its enactment (date of approval) and all changes carefully noted. The same procedure has been followed in dealing with the laws of New Hampshire enacted in the ten-year period, 1826-1835. The result of this study is shown by the tables on pages 47-49.¹

THE LAWS OF VERMONT, 1826-1845

Year	Number of Public Acts	Number of Private Acts	Number of Permanent Public Acts	Number of Private and Temporary Acts	Number of Amendments of Public Acts	Number of Amendments of Private Acts	Number of Amendments of Permanent Public Acts	Number of Amendments of Private and Temporary Acts
1826	56	91	51	96	15	7	15	7
1827	41	61	33	69	28	7	28	7
1828	26	72	22	76	9	4	9	4
1829	35	57	31	61	23	2	23	2
1830	29	61	24	66	18	0	18	0
1831	38	70	35	73	27	6	27	6
1832	28	63	21	70	21	3	16	8
1833	37	60	27	70	19	2	19	2
1834	43	72	36	79	18	6	18	6
1835	47	91	35	103	17	5	17	5
1836	51	97	43	105	37	6	34	9
1837	34	46	26	54	26	2	26	2
1838	37	50	33	54	29	8	29	8
1839	20	37	12	45	92	2	92	2
1840	32	35	25	42	17	3	17	3
1841	41	34	34	41	32	4	32	4
1842	53	30	47	36	41	2	41	2
1843	37	25	34	28	24	8	24	8
1844	31	15	28	18	16	1	16	1
1845	41	48	36	53	17	7	17	7

THE LAWS OF VERMONT, 1826-1845

Year	Number of Public Acts per 100 Total Acts	Number of Private Acts per 100 Total Acts	Number of Permanent Public Acts per 100 Total Acts	Number of Private and Temporary Acts per 100 Total Acts	Number of Amendments of Public Acts per 100 Public Acts	Number of Amendments of Private Acts per 100 Private Acts	Number of Amendments of Permanent Public Acts per 100 Perma- nent Public Acts	Number of Amendments of Private and Temporary Acts per 100 Private and Temporary Acts
1826	38.1	61.9	34.7	65.3	26.8	7.7	29.4	7.3
1827	40.2	59.8	32.4	67.6	68.3	11.5	84.8	10.1
1828	26.5	73.5	22.5	77.5	34.6	5.7	40.9	5.3
1829	38	62	33.7	66.3	65.7	3.5	74.2	3.3
1830	32.2	67.8	26.7	73.3	62.1	0	75	0
1831	35.2	64.8	32.4	67.6	71.1	8.6	77.1	8.2
1832	30.8	69.2	23.1	76.9	75	4.8	76.2	11.4
1833	38.1	61.9	27.8	72.2	51.4	3.3	70.4	2.9
1834	37.4	62.6	31.3	68.7	41.9	8.3	50	7.6
1835	34.1	65.9	25.4	74.6	36.2	5.5	48.6	4.9
1836	34.5	65.5	29.1	70.9	72.5	6.2	79.1	8.6
1837	42.4	57.6	32.5	67.5	76.5	4.3	100	3.7
1838	42.5	57.5	37.9	62.1	78.4	16	84.8	14.8
1839	36	64	21.1	78.9	460	5.4	766.7	4.4
1840	47.8	52.2	37.3	62.7	53.1	8.6	68	7.1
1841	54.7	45.3	45.3	54.7	80	11.4	97	9.5
1842	63.9	36.1	56.6	43.4	77.4	6.7	87.2	5.6
1843	59.7	40.3	54.8	45.2	64.9	32	70.6	28.6
1844	67.4	32.6	60.9	39.1	51.6	6.7	57.1	5.6
1845	46.1	53.9	40.4	59.6	41.5	14.6	47.2	13.2

THE LAWS OF NEW HAMPSHIRE, 1826-1835

Year	Number of Public Acts	Number of Private Acts	Number of Permanent Public Acts	Number of Private and Temporary Acts	Number of Amendments of Public Acts	Number of Amendments of Private Acts	Number of Amendments of Permanent Public Acts	Number of Amendments of Private and Temporary Acts
1826	22	50	20	52	21	10	21	10
1827	33	34	32	35	30	1	30	1
1828	54	76	48	82	62	8	62	8
1829	28	49	25	52	35	3	35	3
1830	22	27	16	33	6	3	6	3
1831	26	51	22	55	17	9	17	9
1832	39	59	35	63	38	8	38	8
1833	16	33	13	36	15	33	15	33
1834	33	43	29	47	16	42	16	42
1835	22	50	19	53	13	82	13	82

THE LAWS OF NEW HAMPSHIRE, 1826-1835

Year	Number of Public Acts per 100 Total Acts	Number of Private Acts per 100 Total Acts	Number of Permanent Public Acts per 100 Total Acts	Number of Private and Temporary Acts per 100 Total Acts	Number of Amendments of Public Acts per 100 Public Acts	Number of Amendments of Private Acts per 100 Private Acts	Number of Amendments of Permanent Public Acts per 100 Permanent Public Acts	Number of Amendments of Private and Temporary Acts per 100 Private and Temporary Acts
1826	30.6	69.4	27.8	72.2	95.5	20.0	105.0	19.2
1827	49.3	50.8	47.8	52.2	90.9	29.4	93.8	2.9
1828	41.5	58.5	36.9	63.1	114.8	10.5	129.2	9.8
1829	36.4	63.6	32.5	67.5	125.0	6.1	140.0	5.8
1830	44.9	55.1	32.7	67.4	25.5	11.1	37.5	9.1
1831	33.8	66.2	28.6	71.4	65.4	17.7	77.3	16.4
1832	39.8	60.2	35.7	64.3	97.4	13.6	108.6	12.7
1833	32.7	67.4	26.5	73.5	93.8	100.0	115.3	91.7
1834	43.4	56.6	38.2	61.8	48.5	97.7	55.2	89.4
1835	30.6	69.4	26.4	73.6	59.1	164.0	68.4	154.7

All of these data have been reduced to percentages in order to provide a common basis for comparison. The percentages have been plotted and curves drawn, except for those percentages which deal with the number of public or permanent public acts. The curves based on these percentages will be found on pages 51-56.

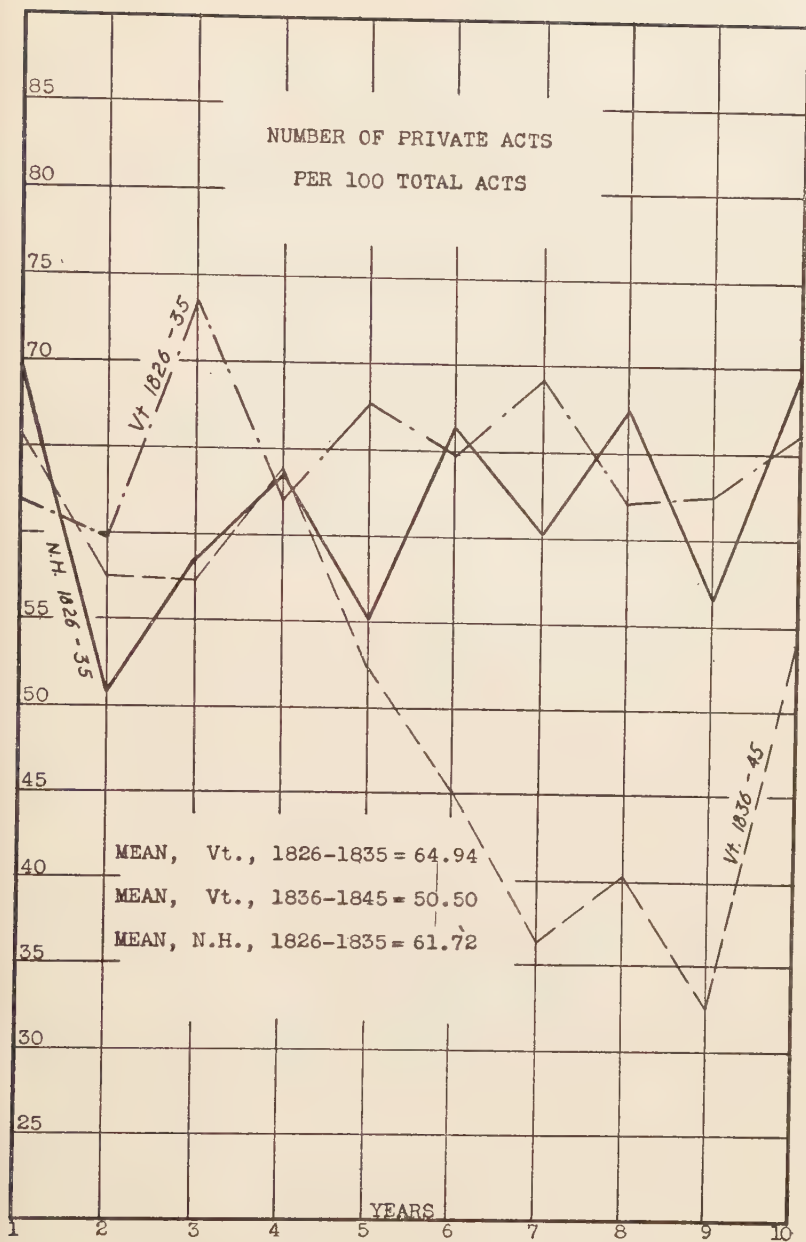
Since a heavy percentage of the private acts deals with the chartering or regulation of private corporations, the conclusion seems unavoidable that the sharp decline in the percentage curves for private acts and private and temporary acts after 1839, as shown on pages 51 and 52, probably has no significance other than to indicate a change in economic conditions. There was a sharp decline in wholesale prices in the United States after 1839 which continued until 1845, when a slight improvement is noted. The rise in these curves after 1844 is probably due to this improvement in economic conditions, as shown by the rise in wholesale prices in 1845. The index numbers of wholesale prices in the United States in this period, based on the wholesale prices for 1913, were as follows: 1839, 121; 1840, 103; 1841, 102; 1842, 95; 1843, 89; 1844, 89; 1845, 90.²

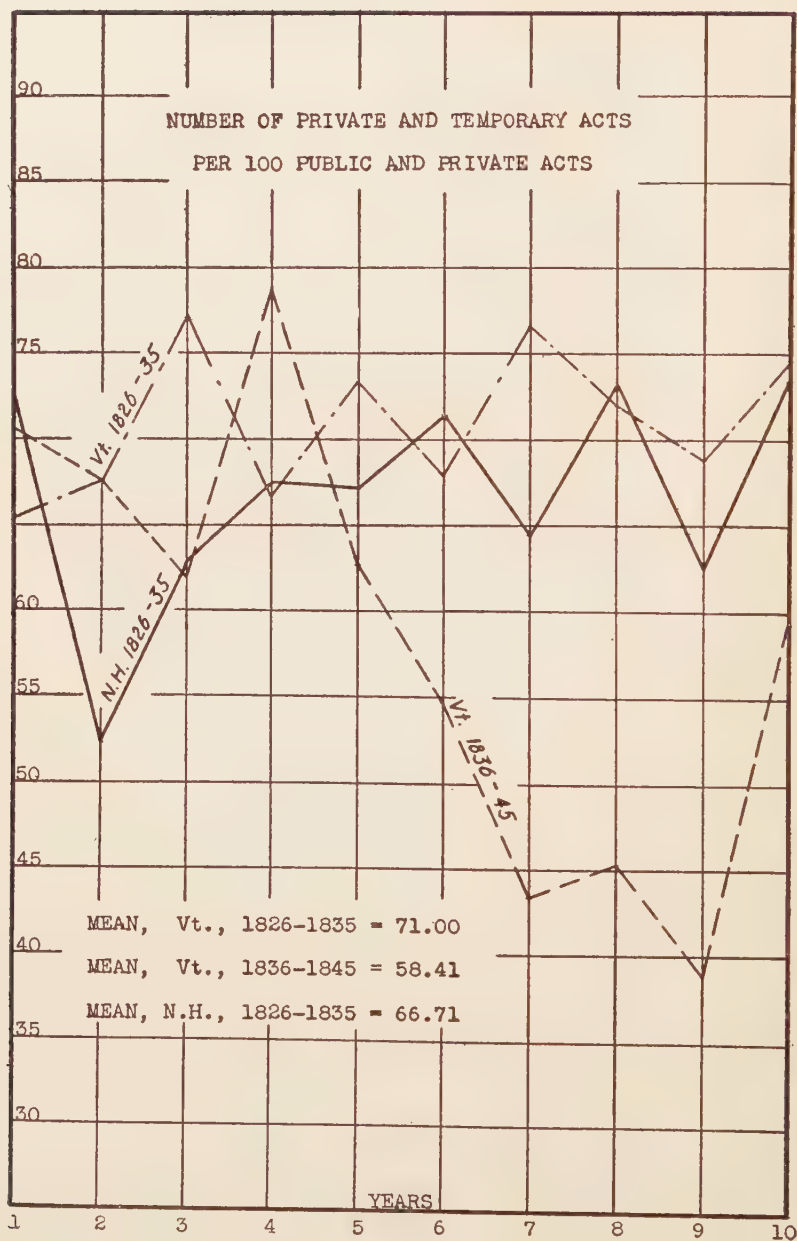
The unusual rise in the curves, showing the percentage of amendment of public acts³ by the legislature of Vermont in the year, 1839, is due to the fact that, in that year, the legislature, in approving a revision of the laws of the state, took it upon itself to alter in a material way the substance of the existing law. The legislatures of the following ten years found it necessary on numerous occasions to amend the laws thus made in 1839.

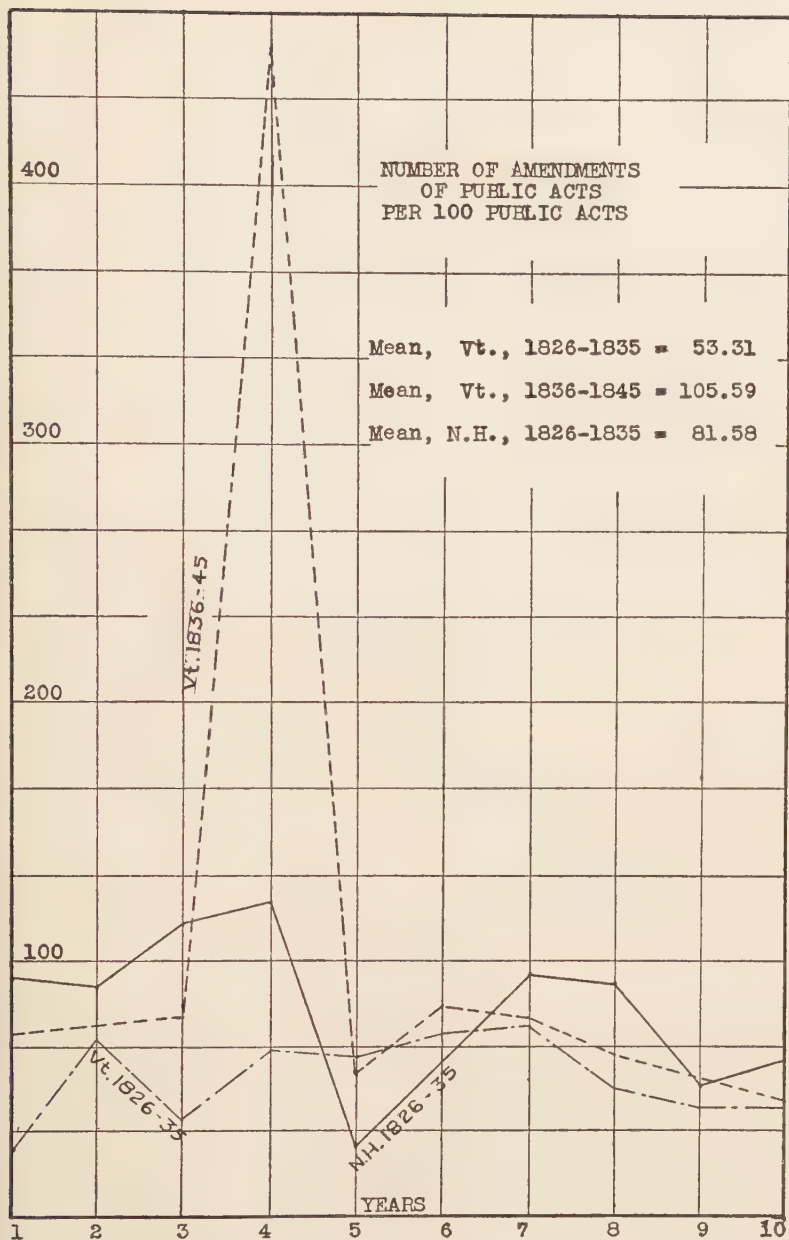
The exceptional rise in the percentage of amendment of the private acts and private and temporary acts of New Hampshire after 1832, as shown on pages 54 and 56, was due to a policy, begun in the early forties, of regulating corporations by general statute. This was probably a wise legislative policy and it is not understood, therefore, to indicate any criticism of the legislative action of the General Court of that state.

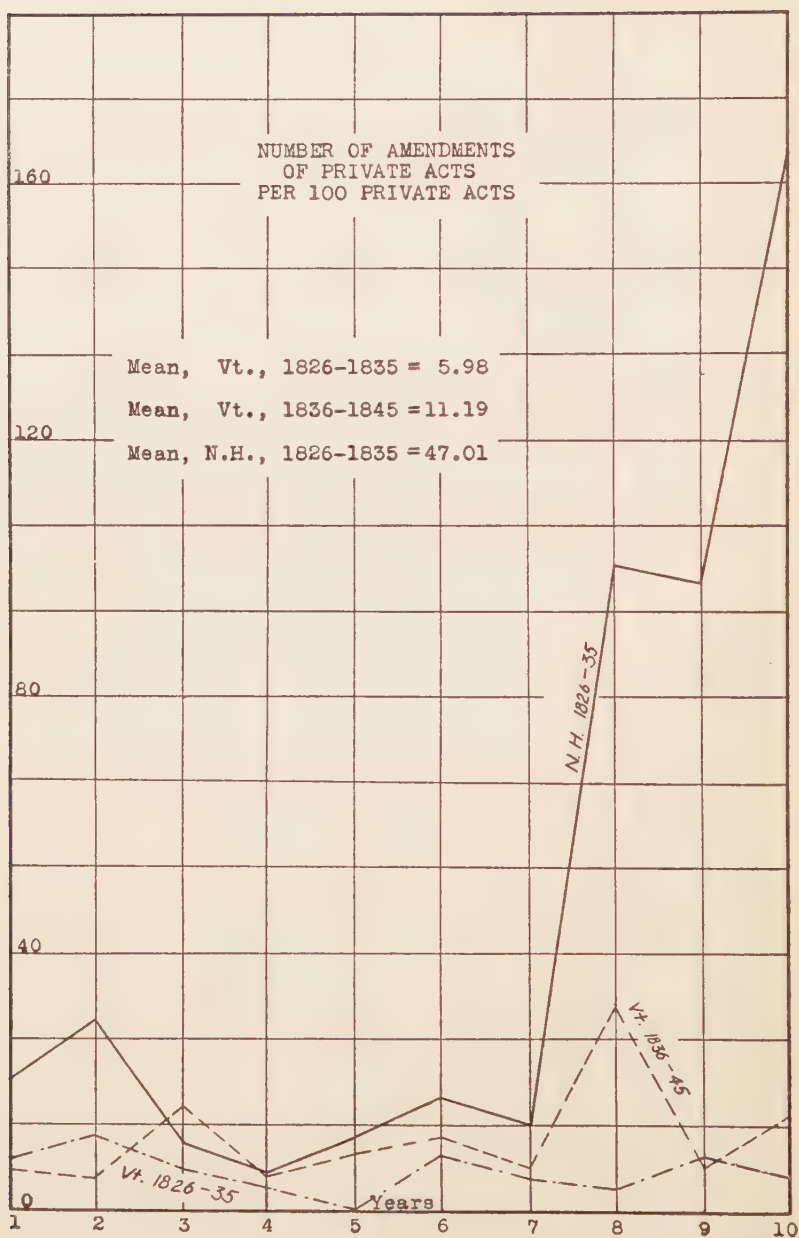
On the whole, it may be said that, while Vermont did reduce the percentage of private acts in the ten-year period following the change to the bicameral system, her action was not due apparently to any policy intended to stabilize or render more uniform the private legislation of the state. Instead, it was probably due to the existence of altered economic conditions. Vermont's bicameral legislature seems to have kept pace pretty well, prior to the change in economic conditions which occurred after 1839, with its unicameral legislature

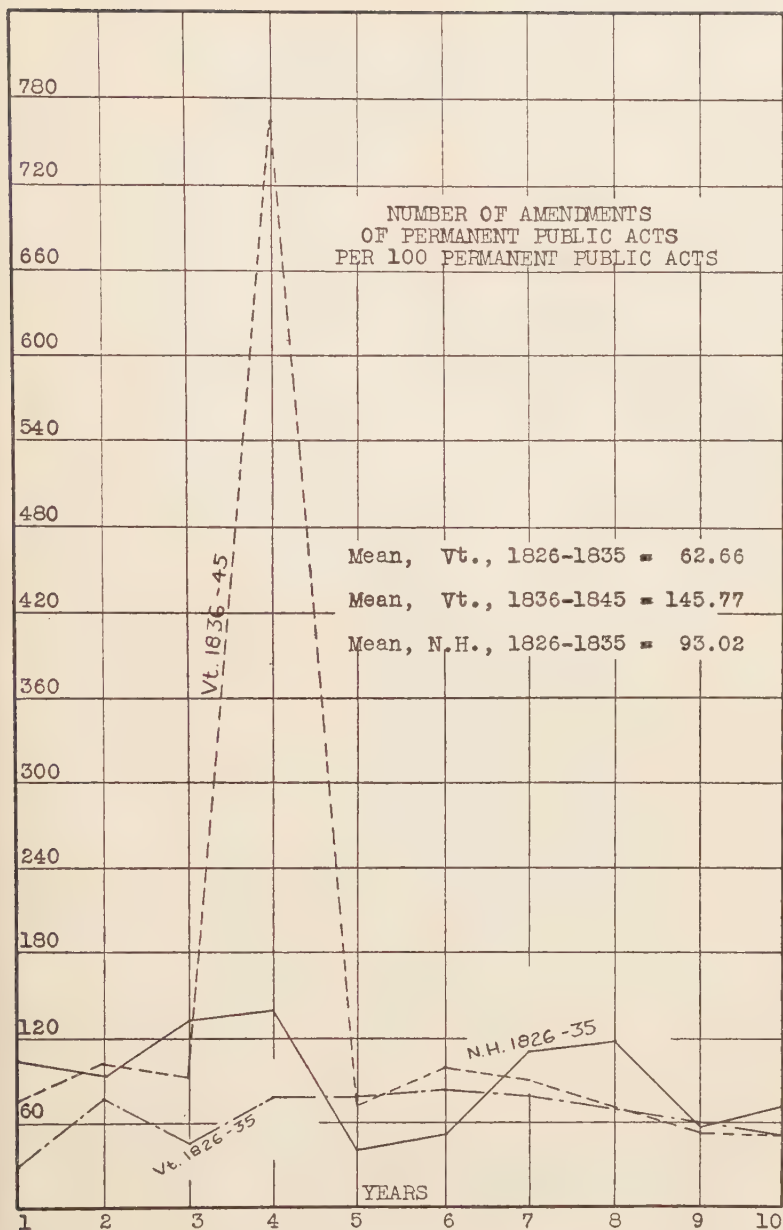
NUMBER OF PRIVATE ACTS
PER 100 TOTAL ACTS

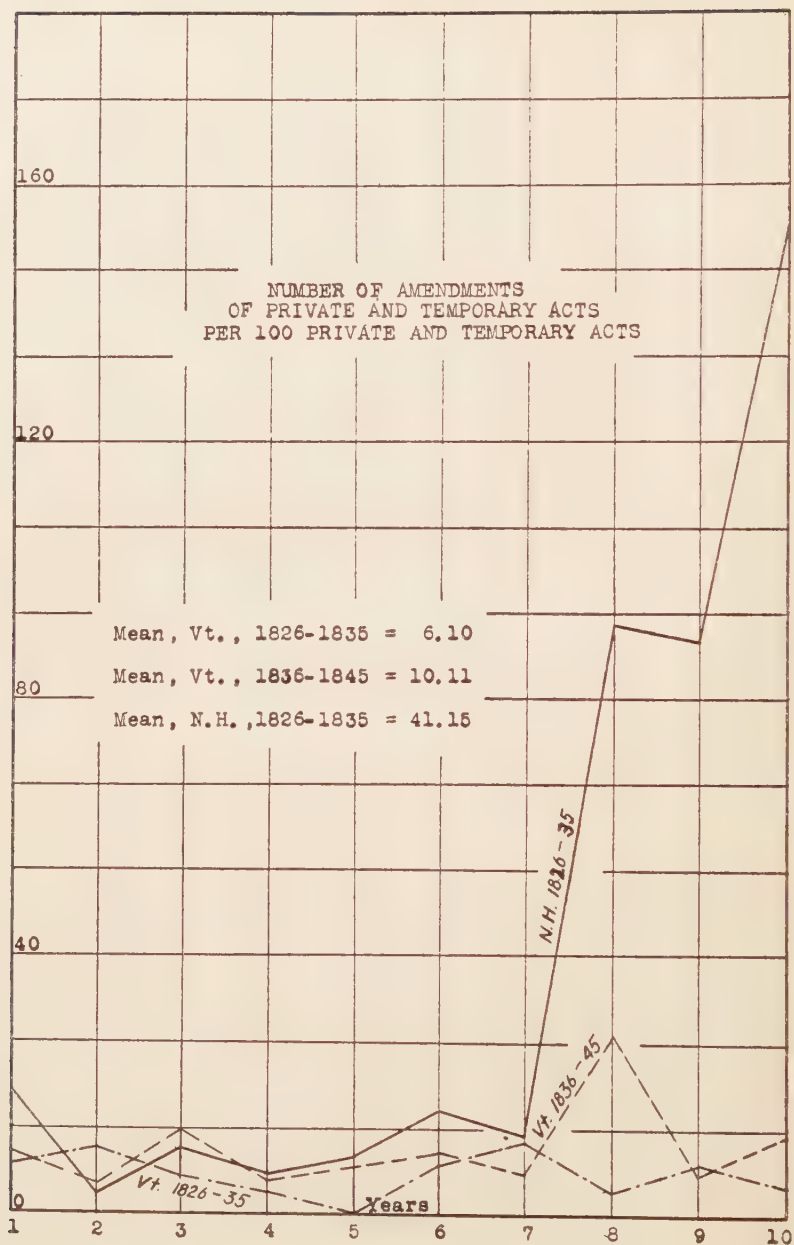












in the enactment of private legislation. New Hampshire had a lower percentage of private legislation than did Vermont in the ten years prior to 1836. This, however, was probably partly due to the fact that New Hampshire developed her manufacturing before Vermont did,⁴ but it was also due, in part at least, to the fact that the legislature of New Hampshire disposed of many problems by resolution which, in Vermont, would have been handled by private legislation.⁵

However, the test applied by the proponents of the bicameral system was the instability of law, as shown by the prevalence of laws enacted by the unicameral legislature, amending other laws. In this regard, the evidence is so overwhelmingly in favor of the unicameral legislature of Vermont, as shown by the curves on pages 53-56, that it is difficult to see any justification whatever for their contention. It is entirely possible that some of the alterations of the laws of either Vermont or New Hampshire have been overlooked. It is difficult to say that every change has been noted and properly classified, although all of the materials have been carefully checked and rechecked. Any such possible error could not possibly be sufficient to prevent what would seem to be the inevitable conclusion that there was greater stability of law with a unicameral legislature in Vermont in the period, 1826-1835, than there was with a bicameral legislature either in Vermont in the period, 1836-1845, or in New Hampshire in the period 1826-1835.

If the quality of law can be measured by the degree of its stability, as was contended by the proponents of the bicameral scheme in the campaign to secure the adoption of a two-chambered system for Vermont, then the evidence here presented would seem clearly to indicate that better laws can be secured with a unicameral than with a bicameral legislative body.

The cost of state government may in some measure be indicative of the efficiency of the state legislature and, in order to determine if the change to the bicameral system had any effect on Vermont government costs, the annual reports of the Auditor in the Treasury Department⁶ have been analyzed and the results tabulated, as shown by the table on page 58.

The construction of the new state house caused an unusual expenditure in this period. These expenditures occurred in the years, 1833-1838. With these expenditures eliminated, the total cost of state government in these years becomes \$57,004.41 in 1833,

\$54,697.60 in 1834, \$54,539.87 in 1835, \$74,127.68 in 1836, \$68,912.21 in 1837, and \$65,563.03 in 1838. After making these deductions, the total ten-year cost of state government is \$529,955.92 with the unicameral legislature and \$806,080.28 with the bicameral legislature. With the state house construction cost eliminated, the average annual cost of state government in Vermont was \$52,995.59 in the ten years before the change to the bicameral system and \$80,608.03 in the ten years after that change. As this was by far the heaviest single item of expenditure during the twenty years studied and an exceptional charge upon the revenues of the state, it seems only fair that, for purposes of comparison, it should be eliminated in the analysis of the cost of state government.

VERMONT GOVERNMENT COSTS, 1826-1846

Yearly Report	Legislative Cost (Council included until replaced by Senate)	Total Government Cost
1827	\$15,297.96	\$43,496.00
1828	15,530.05	50,687.79
1829	11,316.19	43,622.63
1830	11,172.70	49,839.95
1831	13,143.20	53,292.90
1832	12,991.87	48,647.09
1833	13,480.35	67,238.26
1834	13,927.60	78,624.17
1835	13,437.87	91,834.90
1836	15,640.30	97,800.85
	<u>\$135,938.59</u>	<u>\$625,084.54</u>
1837	19,220.03	98,246.42
1838	13,500.52	71,663.03
1839	15,395.50	71,484.55
1840	22,028.84	85,724.92
1841	14,066.69	71,588.73
1842	16,719.95	81,881.56
1843	18,420.65	116,179.56
1844	13,378.07	79,304.47
1845	12,686.70	82,031.84
1846	14,858.50	83,409.41
	<u>\$160,273.45</u>	<u>\$841,514.59</u>

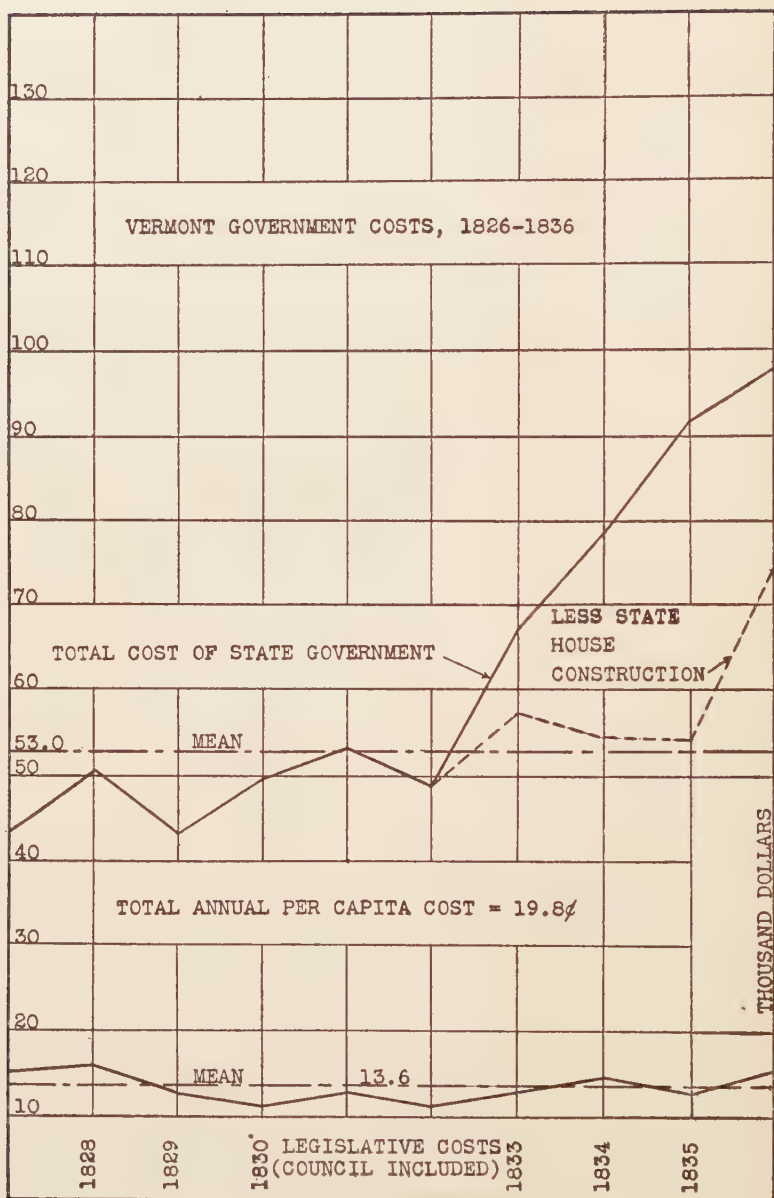
The federal census reports show that the population of Vermont was 235,764 in 1820, 280,769 in 1830, 291,948 in 1840, and 314,120 in 1850.⁷ Based on the census figures for 1820 and 1840, the average annual increase in population and the average population

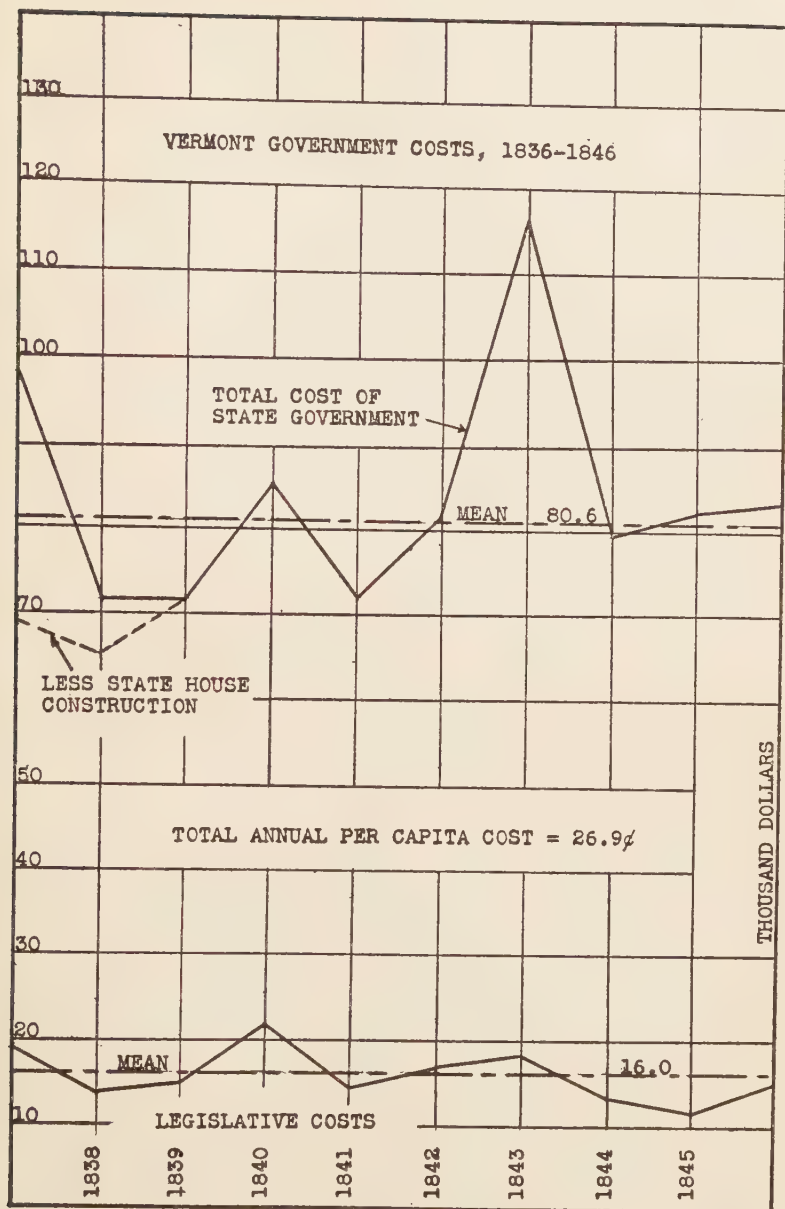
in the period, 1827-1836, were 2,809.2 and 268,069.8, respectively. The corresponding figures for the period, 1837-1846, based on the census figures for 1830 and 1850, were 1,667.55 and 299,945.83, respectively. Computed on these bases, the average annual per capita cost of state government (less state house construction cost) in Vermont was 19.8 cents in the ten years before and 26.9 cents in the ten years after the change to the bicameral system.

Additional light is thrown upon the method of financing the state government by these same reports. The state expended \$141.03 in interest during the ten years ending in 1836 and \$24,396.84 in the succeeding ten years. In 1836, the state owed the state School Fund \$37,765.10.⁸ This fund was created in 1825 for the benefit of the common schools of the state.⁹ It had grown to \$234,900.44 in 1845 when it was abolished by act of the General Assembly.¹⁰ At that time (1845), the state had already expended \$224,309.50 of the fund, so that there was really only \$10,590.94 in the fund at the time of its abolition. This amount was turned into the state treasury by the act of abolition. The amount (\$37,765.10) used before the 1836 report (in 1834, 1835, and 1836, when the state house was being constructed) had never been repaid, so that amount may be charged against the unicameral legislature and the remainder (\$197,139.34) against the bicameral legislature. More than that, the Safety Fund, a fund created in 1831 by act of the General Assembly to insure the payment of the debts of insolvent state banks,¹¹ was used by the state at various times and in varying amounts during the period, 1836-1846, but it was not touched prior to that time. It would seem, however, that all money belonging to this fund was ultimately repaid. The policy of using funds the purpose of which was to pay the debts of insolvent state banks is hardly one which should be approved. From these facts, it would seem reasonable to conclude that the bicameral legislature of Vermont, in the period studied, must stand charged with an indifferent financial policy.

It would seem, therefore, that the total and per capita costs of state government were less and the financial policy of the state was wiser under the unicameral than under the bicameral legislature of Vermont.

This evaluation of the results obtained by the unicameral legislature of Vermont shows that that body had very definite advantages over the bicameral legislature which succeeded it and over the bi-





cameral legislature of New Hampshire. It shows that the statute laws of Vermont enacted in the ten years before the change to the bicameral system were decidedly more stable than those of New Hampshire enacted in the same period and, to a greater degree, than those of Vermont enacted in the succeeding ten years. It shows that the cost of government was decidedly less in Vermont in the ten years before the change to the bicameral system than it was in the ten years after that change.

It may possibly be contended that stability is not a fair standard by which to judge the quality of law. It was, however, the one argument used (and it was always used) by the proponents of the bicameral system in criticizing the quality of the laws enacted by the unicameral legislature. They contended that the laws of Vermont would be more stable if enacted by a bicameral legislature. Moreover, it seems to be the only available standard by which to measure the quality of the laws enacted in the period studied, except in so far as the cost of government may be accepted as a standard for that purpose. Be that as it may, it is nevertheless true that the stability of the laws enacted by a given legislature may be accepted as a test of the efficiency with which it anticipated correctly the needs of the state and, therefore, as a test of the efficiency of the legislature itself. Measured by that test, the unicameral legislature of Vermont was definitely superior, in the period studied, to the bicameral legislature of either Vermont or New Hampshire.

NOTES

1. *Laws of Vermont*, 1826 (Bennington, 1826); *ibid.*, 1827 (Woodstock, 1827); *ibid.*, 1828 (Woodstock, 1828); *ibid.*, 1829 (Woodstock, 1829); *ibid.*, 1830 (Woodstock, 1830); *ibid.*, 1831 (Middlebury, 1831); *ibid.*, 1832 (Montpelier, 1832); *ibid.*, 1833 (Montpelier, 1833); *ibid.*, 1834 (Montpelier, 1834); *ibid.*, 1835 (Montpelier, 1835); *ibid.*, 1836 (Montpelier, 1836); *ibid.*, 1837 (Montpelier, 1837); *ibid.*, 1838 (Montpelier, 1838); *ibid.*, 1839 (Montpelier, 1839); *ibid.*, 1840 (Montpelier, 1840); *ibid.*, 1841 (Montpelier, 1841); *ibid.*, 1842 (Montpelier, 1842); *ibid.*, 1843 (Montpelier, 1843); *ibid.*, 1844 (Montpelier, 1844); *ibid.*, 1845 (Burlington, 1845); *ibid.*, 1846 (Burlington, 1846); *ibid.*, 1847 (Burlington, 1847); *ibid.*, 1848 (Burlington, 1848); *ibid.*, 1849 (Montpelier, 1849); *ibid.*, 1850 (Montpelier, 1850); *ibid.*, 1851 (Montpelier, 1851); *ibid.*, 1852 (Montpelier, 1852); *ibid.*, 1853 (Montpelier, 1853); *ibid.*, 1854 (Montpelier, 1854); *ibid.*, 1855 (Montpelier, 1855); *Laws of New Hampshire*, pub. by New Hampshire Historical Society, IX, X; *The Laws of New Hampshire*, June Session, 1836 (Concord, 1836);

ibid., November Session, 1836 (Concord, 1837); *ibid.*, June Session, 1837 (Concord, 1837); *ibid.*, 1838 (Concord, 1838); *ibid.*, 1839 (Concord, 1839); *ibid.*, 1840 (Concord, 1840); *ibid.*, November Session, 1840 (Concord, 1841); *ibid.*, June Session, 1841 (Concord, 1841); *ibid.*, 1842 (Concord, 1842); *ibid.*, 1843 (Concord, 1843); *ibid.*, 1844 (Concord, 1844); *ibid.*, November Session, 1844 (Concord, 1845); *ibid.*, June Session, 1845 (Concord, 1845). In classifying laws as public or private, rules have been followed which would require a minimum number of changes in the classifications found in the official publications of the laws of Vermont and New Hampshire. No attempt has been made to apply arbitrary rules or rules which would be inherently perfect, but rather to find what rules were followed and, on the basis of those rules, to eliminate inconsistencies. The official publications do not classify laws as temporary. However, only those public acts which obviously were intended to have temporary application are included in this class. All other public acts are assumed to be permanent and are so classified. Those laws have been classified as public (a) which have general application, (b) which alter the boundaries of counties or towns so as to affect the boundaries of other counties or towns, (c) which apply to units of the state militia, (d) which deal with the courts or the legislative or executive agencies of state government, (e) which apply to state institutions, (f) which deal with the preservation of fish, or (g) which have general application to highways. Those laws have been classified as private (a) which deal with individual corporations, (b) which apply to a single town or area, except those which deal with the preservation of fish, (c) which grant money to individuals, or (d) which deal with individual roads or bridges.

2. *Monthly Labor Review*, February, 1927, p. 167.

3. See *infra*, pp. 53, 55.

4. Victor S. Clark, *History of Manufactures in the United States, 1607-1860* (Washington, 1916), pp. 200-207; George French, *New England, What it is and What it is to be* (Boston, 1911), pp. 48-55; Mowry, *Elements of Civil Government*, pp. 6-8, in Vermont Supplement.

5. *Laws of New Hampshire*, pub. by New Hampshire Historical Society, IX, pp. 572-575, 699-703, 743-744; *ibid.*, X, pp. 101-113, 165-177, 185-285, 342-348, 428-436, 504-520, 612-623, 728-736.

6. *Journal of the General Assembly of the State of Vermont*, 1827, p. 15; *ibid.*, 1828, p. 20; *ibid.*, 1829, p. 11; *ibid.*, 1830, p. 14; *ibid.*, 1831, p. 36; *ibid.*, 1832, p. 28; *ibid.*, 1833, p. 38; *ibid.*, 1834, p. 12; *ibid.*, 1835, p. 22; *Journal of the House of Representatives of the State of Vermont*, 1836 (Middiebury, 1836), p. 27; *Journal of the Senate of Vermont*, 1837, app. p. 112; *ibid.*, 1838, app. p. iii; *ibid.*, 1839, app. p. x; *ibid.*, 1840, app. p. xxiii; *Journal of the House of Representatives of the State of Vermont*, 1841, app. pp. 33, 77; *ibid.*, 1842, app. p. 96; *ibid.*, 1843, app. p. 1; *ibid.*, 1844, p. 193; *ibid.*, 1845, p. 297; *Annual Report of the Auditor of Accounts of the State of Vermont*, 1846 (Rutland, 1846), p. 14.

7. *Fourth Census of the United States*, 1820; *Fifth Census of the United States*, 1830, p. 35; *Sixth Census of the United States*, 1840, p. 80; *Compendium of the United States Census*, 1850, p. 102.

8. *Journal of the House of Representatives of the State of Vermont*, 1836, p. 29.
9. *The Laws of Vermont of a Public and Permanent Nature, Coming down to, and Including the Year 1834*, compiled by Daniel P. Thompson (Montpelier, 1835), p. 35.
10. *Annual Report of the Auditor of Accounts of the State of Vermont*, 1845 (Woodstock, 1845), p. 9; *Laws of Vermont*, 1845, No. 36.
11. *Laws of Vermont*, 1831, p. 16.

CHAPTER V

CONCLUSION

VERMONT adopted a constitution in 1777 which provided for a unicameral legislature. The legislative body was organized the following year and, from that time until 1836, a period of fifty-eight years, the state retained its unicameral scheme of legislative organization.

The scheme of government provided by the constitution of 1777 was not, in all probability, one which would be adopted by any state today. It contained important imperfections which, unfortunately, were not eliminated prior to the abolition of the unicameral scheme. Representation in the legislative body was based on the principle of town equality.¹ The legislative body was large and cumbersome. Due to the then prevailing distrust of governors, executive power was placed in a council (Governor and Council), elected at large. This council was given (after 1785) a suspensory veto over legislation, which permitted it to prevent the passage of any bill into law until the next session of the legislative body. Censorial power over the agencies of government, including the power to propose amendments to the constitution and to call constitutional conventions for their adoption, was vested in another council (Council of Censors), likewise elected at large.

Competition for extension of authority early developed between the House of Representatives and the Governor and Council. Each was grasping for power—jockeying for position. This was particularly noticeable in the field of legislation. The Governor and Council was persistent in its attempt to extend the sphere marked out for it in this field. The Council of Censors, representing, presumably, approximately the same constituency as the Governor and Council, was also persistent in its demand for the creation of a second legislative chamber with powers approximately equal to those of the first.

This competition between the House and the Council in the field of legislation was especially keen after 1812 and reached a climax in 1826, when the House repassed a bill, which had been suspended by the Council at the preceding session, and declared it to be law without submission to the Council. The Council then instructed its

secretary to keep suspended bills in his possession, subject to the order of the Council at its next session.²

In declaring this bill to be law without submitting it to the Council, the House deviated from what had been accepted practice during the previous twenty-eight years, but it was merely neglecting to perform what had always been regarded as a courtesy; it was acting in accordance with the laws of the state and in accordance with what had been accepted practice during the first twelve years that the Council had the power to suspend the enactment of laws under the existing provisions of the constitution.

In asserting that it had the right to keep suspended bills in its possession, subject only to its arbitrary authority, the Council was apparently asserting its right to an absolute and unqualified veto over legislation. If it had actually possessed such power, it would practically have been to all intents and purposes a second legislative chamber with legislative powers equal to those of the first. However, the Council was not permitted to carry its will into effect and, thereafter, when the House repassed a suspended bill, it was declared to be law without reference to the Council.

The Censors of 1827 and 1834 took up the cudgels of the Council more strenuously than ever before. Then, for the first time, in their effort to secure the adoption of the bicameral system, they used an argument dealing with alleged wrongdoing by the House. They contended that the House had usurped authority belonging to the Council. The argument was entirely fallacious and was apparently not given any serious consideration by the people of the state at the time of the constitutional convention of 1828. It, however, was given much emphasis by the Censors of 1834 and by the proponents of the new scheme in the constitutional convention of 1836.³

But the Censors of 1834 were aided in their fight by an additional local grievance. They urged, but obviously without a great deal of emphasis, that certain county officers be henceforth elected by popular vote instead of election by joint meeting of House and Council on the ground that "improper" methods "almost necessarily" developed under the existing scheme of election.⁴ They did not in any way connect their argument for these amendments with that for the amendment to substitute a senate for the Council. Moreover, they did not propose to alter the method of election of the Governor or the Lieutenant Governor.

Nevertheless, the state did experience considerable difficulty in the early thirties in electing the Governor and Lieutenant Governor. There were three major political parties in the state and no candidate for either of these offices was ordinarily able to secure a majority of the popular vote in the regular election and, as a result, the election of these officers usually occurred in the joint meetings of the House and Council. The following table, showing the candidates elected and the number of ballots taken in Joint Committee in this period in the various attempts to elect a governor, indicates how serious the problem was.⁵

Candidate Elected	Party Affiliation	Number of Ballots Taken	Year
S. C. Crafts	National Republican	32	1830
W. A. Palmer	Anti-Masonic	9	1831
W. A. Palmer	Anti-Masonic	43	1832
W. A. Palmer	Anti-Masonic	0	1833
W. A. Palmer	Anti-Masonic	1	1834
None		63	1835

William A. Palmer was the candidate of the Anti-Masonic party every year during this period (1830-1835). He secured a majority of the popular vote in 1833 and a plurality of the vote in the popular election and in Joint Committee in 1835, though he failed to obtain the election in the latter year, Silas H. Jennison, who had been elected lieutenant governor, being permitted to serve out the term. He (Palmer) was elected on the first ballot in Joint Committee in 1834, because the opposition parties, anticipating the disintegration of the Anti-Masonic party and the possibility of reaping political advantage, threw a considerable portion of their strength to him. The attitude of these opposition parties was apparently changed in 1835, for they seemed determined that Palmer should not be elected. They may have been attempting to force the break-up of the Anti-Masonic party. At any rate, that was an apparent result, as the Anti-Masonic party did not again place candidates in the field in a general election in Vermont.⁶

The Anti-Masonic movement was probably an important factor in the elimination of Vermont's unicameral legislature. With the existing multiple-party system, operating under a scheme of government such as Vermont then had, efficient and responsible government

was not possible, though, of course, the substitution of a bicameral for the existing unicameral legislature would certainly not improve the situation. It was apparently understood for at least two years prior to the session of the legislature of 1835 that the Anti-Masonic party would soon be eliminated from participation in the political affairs of the state. A majority of the people were apparently not in sympathy with the Anti-Masonic movement, but the existence of the Anti-Masonic party had prevented the election of a governor in 1835. There were other lines of division, of course, but the people of the state were pretty definitely lined up either for or against the Anti-Masonic movement and the lines were tightly drawn. There was intense feeling in the state throughout the development of this movement. Moreover, the people were very bitter over the failure of the Joint Committee to elect a governor in 1835 and were, therefore, in excellent mood to accept the contention of the Council of Censors that there was something wrong with their frame of government and to act accordingly.⁷

Some idea of the intensity of feeling which developed in the state as a result of the Anti-Masonic movement is shown by the following quotation: "The Anti-Masonic movement spread with great rapidity in Vermont, and Caledonia county was the center of activity in New England. It is difficult to realize the extent of the disturbance caused throughout the state by this political development. The 'History of Woodstock' declares that 'the animosities engendered by the strife reached every family; they penetrated even the sanctuary and were attended with an exhibition of personalities such as the lover of sobriety and good order in society may hope never to see repeated.' In some instances clergymen who were Masons were compelled to leave their parishes, not being allowed to enter churches. Families and churches were divided. Elsewhere Masons were excluded from jury service and from important town offices. At a funeral held in Danville, relatives who were Masons occupied one room and their opponents another. One faction stood on one side of the grave, and the other on the opposite side. . . ."⁸

The Censors of 1834 submitted their proposed amendments to the people of the state on January 15, 1835, and, on the following day, issued the call for the convention to meet on January 6, 1836. The newspapers of the state were practically unanimous in their opposition to the adoption of the bicameral system prior to the time when

the Joint Committee of 1835 decided to discontinue its efforts to elect a governor and equally unanimous in support of the adoption of that system after that time.⁹ The only argument which these newspapers advanced in support of the new scheme was that it would eliminate bargaining for office. The legislature adjourned on November 11, 1835, and the delegates to the convention were elected six days later. The people of the state were aroused and it was natural that their intense feeling should find expression in the election of delegates favorable to the proposed change in their legislative organization.¹⁰

In acquiescing in the change to the bicameral system in 1836, the people of the state were accepting the advice of respected leaders. There is no reason for believing that the change proposed would correct the evil of which they complained and one cannot help wondering, therefore, why those leaders, including the Councils of Censors, insisted upon the change.

In Vermont, as in other states, there had been a great development in the number and activities of state banking institutions during the administrations of Andrew Jackson. These banks were not seriously regulated prior to 1836 and the leaders in their development must have realized that the time was not far distant when restrictive legislation would be enacted. There is some evidence that bankers were active in support of the change to the bicameral scheme in the convention of 1836 and they may have been active among the newspapers and elsewhere during the campaign leading to the convention. It is true that it would have been much easier for them to control a house of thirty than one containing more than two hundred members. In a bicameral legislature, it would have been necessary for them to block legislation in only one of the chambers and responsibility for failure to enact desired legislation could very easily have been shifted and nullified. Moreover, the scheme of election by counties of the members of the proposed second chamber was one which would probably result in the election of candidates from the more populous centers, i.e., the places where the more influential banks were located.¹¹

It seems reasonable to assume that there must have been some such influence working behind the scenes. Otherwise, it is exceedingly difficult, to say the least, to understand the almost complete change in the attitude of the newspapers of the state on the question of

adopting the bicameral system or the repeated refusal of the convention of 1836 to consider the report of its credentials committee until after it had voted to adopt the bicameral system on January 9 and had refused to reconsider that vote on January 11. It must be assumed that the writers of articles in the newspapers of the state during November, December, and January (1835-1836) knew that logrolling and bargaining for public offices could not be eliminated by substituting a senate with legislative powers co-ordinate with those of the House for the existing executive council. It seems apparent that there must have been an effective organization functioning among the proponents of the bicameral scheme, for it is otherwise difficult to understand why the convention, in the face of insistent demand from the floor, knowing that a considerable number of the delegates were without proper credentials, should have refused to consider the report of its credentials committee.¹²

It was under these circumstances and probably primarily for these reasons—though undoubtedly the remaining arguments advanced by the Council of Censors¹³ were, in some small measure at least, contributing factors—Vermont did decide by a vote of 116 to 113 to abandon the unicameral scheme of organization for its legislative body.

A careful study of the nature of Vermont's unicameral legislature when in actual operation¹⁴ and of the results obtained by that institution for the people of the state¹⁵ in the light of the arguments that have been advanced in favor of unicameral legislatures generally¹⁶ and of Vermont's unicameral legislature in particular¹⁷ and in the light of the arguments that were advanced in favor of the bicameral system by leaders of Vermont¹⁸ has revealed much to support the advocates of the unicameral system and practically nothing to encourage the proponents of the bicameral scheme.

The analysis of the nature of Vermont's unicameral legislature gives very little reliable information on which to weigh the relative merits of the unicameral and bicameral systems. Neither system had any real advantage over the other in the distribution of the ages of the legislators. The figures show that the unicameral legislature had a higher percentage (8.62 per cent higher) of legislative experience among its members than did the bicameral legislature which succeeded it, but this may be due to causes which it is impracticable to measure. The advantage seems to lie definitely on the side of the

unicameral legislature on the question of the length of the legislative sessions, if the time consumed in conflict between the House and Council and in electing state and county officials be eliminated. The two houses of the bicameral legislature really checked each other, but this is not necessarily an advantage, since the value of the check should be determined by the type of bills rejected and the quality of the laws enacted rather than by the number of amendments and rejections.¹⁹

The people of Vermont apparently received decidedly more benefit from the unicameral legislature than they did from the bicameral legislature. The laws were more stable and the cost of government was less under the old system than under the one which replaced it. The public laws of the state were 98.07 per cent more stable and the private laws of the state were 85.45 per cent more stable in the ten years (1826-1835) before the change to the bicameral legislature than they were in the succeeding ten years. Even if the figures for the one particularly bad year (1839) under the bicameral system in the period studied be eliminated from this calculation, the unicameral legislature still had a very definite advantage, the corresponding figures being 22.12 per cent and 97.83 per cent for the public and private laws, respectively.²⁰

Similarly, the public laws of Vermont were 53.03 per cent and the private laws of Vermont were 686.12 per cent more stable in the ten years (1826-1835) preceding the change to the bicameral system than were the corresponding classes for New Hampshire in the same ten-year period. Such a comparison is not fair, however, because the exceptionally high trend of the New Hampshire curves²¹ for private legislation in the last three years is due to the enactment in the early forties of general laws regulating corporations. This was undoubtedly wise legislation and New Hampshire should not be penalized for it. But, if the figures for New Hampshire for these three years be ignored, the unicameral legislature of Vermont still had a very real advantage, the public and private laws of Vermont being 64.64 per cent and 159.03 per cent, respectively, more stable than were the corresponding classes of laws enacted by the bicameral legislature of New Hampshire in the period studied.²²

But the proponents of the bicameral system repeatedly and consistently insisted that stability of laws be accepted as a criterion for determining their quality. They apparently felt that, if adequately

wise judgment were exercised in the enactment of laws, frequent changes in those laws would not be necessary. While this standard may not be considered sufficient, it is, nevertheless, a tangible unit of measurement and, judged on this basis, the quality of the laws enacted by the unicameral legislature of Vermont was clearly superior to that of the laws enacted by the bicameral legislatures of Vermont and New Hampshire in the period studied. Moreover, the bills passed by one house and rejected by the other under the bicameral scheme in Vermont do not seem to be radically or even seriously different in their general nature and purpose from those which were being enacted into law from year to year under that scheme.

The average annual total cost and the average annual per capita cost of the state government in Vermont were 34.6 per cent and 20.6 per cent, respectively, higher in the ten years after the change to the bicameral system than they were in the preceding ten years. However, the highest single item of cost in this period was the expenditure for the new state capitol and, since this was an extraordinary expenditure, it seems only fair that it be ignored in these calculations. If this item of expenditure be eliminated from consideration, the average annual total cost and the average annual per capita cost of the state government were 52.1 per cent and 35.9 per cent, respectively, higher during the first ten years under the bicameral system than they were during the last ten years under the unicameral system.²³

It may possibly be contended that, with increasing population and increasing complexity of governmental problems, the cost of government ought to increase and, therefore, that these figures are not significant. It is true that the cost of the state government was gradually increasing during the last ten years under the unicameral legislature, but that increase was not enough to justify the expenditures of the next ten years. Ignoring the expenditures for the state capitol, the average annual cost of the state government during the last ten years (1826-1836) of the unicameral legislature was only 29.8 per cent higher than it was during the preceding ten years (1816-1826).²⁴ Comparing this figure with the corresponding one (52.1 per cent) for the next decade (1836-1846), the rate of increase in the cost of the state government was 74.8 per cent higher under the bicameral legislature than it was under the unicameral legislature.

Moreover, the rate of population increase existing during the last ten years of the unicameral legislature did not continue through the next ten years. In fact, that rate of increase decreased 40.6 per cent.²⁵ Also, there was a financial depression after 1839 which should have increased the value of the dollar and at the same time decreased the cost of the state government somewhat.²⁶ Besides, the state received a considerable sum of money from the federal government in 1837. This money (\$669,086.79) was practically all turned over to the towns of the state and probably eliminated many items of expenditure which the state might otherwise have been expected to meet.²⁷

There is very little evidence to support the remaining arguments of those who advocated the adoption of the bicameral system by Vermont. There is no evidence that the action of the bicameral legislature was less hasty or less unwise than that of the unicameral legislature. On the contrary, the records show that its action was probably less wise, if not more hasty, than that of the unicameral body.

As to the argument that Vermont should adopt a system which all of the other states and the United States were using, it is sufficient to point out that, in so far as the state based its action on that argument, it was not standing on its own feet. Moreover, the sufficiency of the bicameral system may reasonably be questioned in view of the recent evident dissatisfaction with that system in several of the states.

It is true that the obvious inequality of representation in the legislative body was corrected somewhat by the addition of a house in which membership was apportioned on the basis of population. The obvious way to accomplish that result, however, was not by the creation of a second chamber, but by a redistribution of seats in the chamber which already existed. Equality of popular representation in one chamber alone would not help greatly to correct inequality of representation when the will of the people as represented in that chamber could not be enacted into law without the concurrence of another chamber in which that equality of representation did not exist. It is significant that, in the campaign to secure a more fair distribution of representation (1785-1836), no Council of Censors, except the one of 1785, gave the people of the state an opportunity to adopt a different scheme of representation without at the same time attaching a second chamber to the proposal.²⁸

One of the principal arguments for the adoption of the unicameral system, recently used in a number of the states, is that a second chamber does not provide any serious check upon legislative action, because the two houses are usually controlled by the same political party. It seems, therefore, that the contention that the establishment of the bicameral system would eliminate "the baneful effects of heat and party spirit" is without serious foundation. Moreover, this was a period when political parties were being developed in the state. It was a period of alignment and realignment of political affiliation. The situation did not become stabilized until after the election of 1835 and there is no evidence that the establishment of the bicameral system was in any way instrumental in securing that end. Doubtless, there was much political strife in the process of adjustment, but there is no evidence that that strife is inherent in the unicameral system.²⁹

It is theoretically true that a shorter ballot was secured by the substitution of a senate apportioned among the counties on the basis of population for an executive council elected at large. In practice, however, the political parties usually nominated and the people elected one member of the Council from each county. Hence, as a matter of fact, a longer ballot was secured by the change, since the Senate adopted was more than twice the size of the Council.

It is difficult to see that the argument, that the way to correct the evil produced by the conflict between the Executive Council and the House of Representatives was to substitute a second legislative chamber for the Executive Council, was more than a pretext to secure the establishment of the bicameral system. Obviously, the easiest and surest way to accomplish that result would have been to abolish the Executive Council without adding the second chamber.

The contention that the unicameral system is inherently vicious or that it tends to produce anarchy finds no support whatever in the experience of Vermont with that system.

The argument that a simple scheme of legislative organization is not suited to a complex civilization is hardly in harmony with present-day theories of governmental organization. The demand today is for greater simplification, as shown by the movements for the short ballot, the reorganization of state administrative agencies, the city-manager plan for city government, etc., and yet our civilization is undoubtedly more complex than it was in 1836. It hardly seems

reasonable, therefore, to assume that a more complex form of governmental organization is needed for a more complex civilization.

The claim that the House of Representatives had usurped legislative power given to the Governor and Council by the constitution and that the House of Representatives had not dared to take over that power while the persons who framed and adopted the provisions of the constitution which defined the relation between the House and the Council in the enactment of law still lived had no factual foundation.

Judged in the light of present-day use of the unicameral system and in the light of experience with that system in Vermont and elsewhere, the contention that the superiority of the bicameral system had been proved by the experience of all ages is interesting, but it has very little, if any, validity. Certainly, there is nothing in the experience of Vermont which justifies any such assumption of superiority.³⁰

While the arguments of those who advocated the adoption of the bicameral system in Vermont do not stand up well under searching investigation, the contentions of the Vermont leaders who opposed the change—(a) that the people were happy and prosperous, satisfied with the existing scheme, and indignant because of the proposed change, (b) that the proposed change would eliminate the unicameral system, which was the best feature of the existing constitution, (c) that it would increase the cost of government and the tax burden of the people, (d) that it would lengthen the legislative sessions without giving any compensating benefit, (e) that it would remove the government farther from the people, and (f) that it was not necessary to have a scheme of governmental organization like that of other states—appear to be amply justified.³¹

In conclusion, this analysis of the unicameral legislature of Vermont gives support to the position taken by Sheldon Amos in 1883, when he said: “. . . It has already been laid down that there are conflicting interests to be represented in the legislature, two objects to be attained,—one, that of their real and effectual representation; that of each being only represented in proportion to its importance relative to all other interests; so that every opportunity is provided for concessions and compromises, for personal sacrifices, and for a fine correlation of ends and means. Now, on behalf of all these objects,—that is, of effective representation, harmonious co-opera-

tion, timely concession, apt adjustment, and habitual preference of the more pressing to the less pressing claims—a common discussion in one broadly representative chamber must surpass in value any series of discussions conducted first by persons having exclusively one order of interests and afterwards by those having exclusively another order. When the two alternative courses are contrasted in this way, it seems almost absurd that there should be any doubt as to the side on which the advantage lies.

“And what is here said of the superior value of having all classes of interests represented simultaneously instead of successively applies with no less force to the value of having various modes of thought, prepossessions, and habitual standards of opinions, all brought to bear in all the discussions of a measure, instead of having some exclusively recognized and enforced at one period of the discussion and the opposite or different ones exclusively recognized on a quite different occasion when the measure has reached a different stage. Nothing but the actual—and, so to speak, accidental—historical evolution of the British Houses of Parliament could have made that appear so natural and familiar which is, in fact, wholly alien to all principles of discussion as recognized in other fields of enquiry, and can never be part of a permanent political system.”⁸²

NOTES

1. See *supra*, p. 12.
2. *Journal of the Council of Censors*, 1827, p. 19; *Governor and Council*, ed. and pub. by Walton, VII, pp. 199, 225, 233, 245, 251; *supra*, pp. 19-20.
3. *Journal of the Convention of Vermont*, 1836, pp. 27-28.
4. *Ibid.*, pp. 32-34. The first five amendments proposed by Censors of 1834, dealing with election of county officers, were not adopted by the convention of 1836. See *ibid.*, pp. 10, 11, 93.
5. *Encyclopedia Vermont Biography*, comp. and ed. by Prentiss C. Dodge (Burlington, 1912), pp. 33-35.
6. *Ibid.*
7. *Ibid.*; Crockett, *History of Vermont*, III, p. 249.
8. Crockett, *History of Vermont*, III, p. 249.
9. *Supra*, pp. 17-18, 24.
10. *Supra*, pp. 24-25.
11. *Supra*, p. 26.
12. *Ibid.*
13. *Supra*, pp. 26-27.
14. *Supra*, pp. 32-45.
15. *Supra*, pp. 46-64.

16. *Supra*, pp. 1-11.
17. *Supra*, pp. 17-18.
18. *Supra*, pp. 26-27.
19. *Supra*, pp. 32-45.
20. *Supra*, pp. 46-57. It should be pointed out that it would be unfair to the unicameral legislature to eliminate from consideration all modifications of the laws of 1839 without eliminating at the same time all modifications of previous laws made by the laws of 1839.
21. *Supra*, pp. 54, 56.
22. *Supra*, pp. 46-57.
23. *Supra*, pp. 57-59.
24. *Journal of the General Assembly of Vermont*, 1817 (Rutland), p. 215; *ibid.*, 1818 (Bennington), p. 29; *ibid.*, 1819 (Bennington), pp. 34-35; *ibid.*, 1820 (Bennington), pp. 80-81; *ibid.*, 1821 (Rutland), p. 51; *ibid.*, 1822 (Montpelier, 1823), p. 26; *ibid.*, 1823 (Bennington), p. 14; *ibid.*, 1824 (Bennington), p. 8; *ibid.*, 1825 (Bennington), p. 8; *ibid.*, 1826 (Rutland, 1827), p. 15. It is unfortunate that adequate cost figures for this period in New Hampshire are not available for this comparison.
25. *Supra*, pp. 58-59.
26. *Supra*, p. 50.
27. This federal loan was, in effect, a gift. An act passed by the state legislature in 1836 required that the money be apportioned among the towns of the state on the basis of population. The auditor's report for 1837 shows that \$636,273.51 was so distributed and \$19,252.90 was loaned to various towns. See *Laws of Vermont*, 1836, No. 15; *Journal of the Senate of Vermont*, 1837, p. 112.
28. See *supra*, pp. 26-31, for an analysis of the arguments advanced in favor of the adoption of the bicameral system by Vermont.
29. Marsh, *An Essay on the Amendments Proposed to the Constitution of the State of Vermont* . . . 1814, pp. 6-8; *Governor and Council*, ed. and pub. by Walton, VII, pp. 347, 392-395; *ibid.*, VIII, pp. 5-7, 57-60, 105-106, 162-164, 215-245.
30. Woodrow Wilson points out that the law-making bodies of the Greeks, the Romans, and the English were unicameral at first then bicameral, when popular chambers were added, and finally practically unicameral, when "all real power came to rest again with a single body, the popular assembly." He says we copied the English scheme when it was in the second stage of its development. The conclusion seems inevitable that, if we had waited a little longer, the unicameral legislature might now be the prevailing type of legislative organization in America. See Woodrow Wilson, *The State* (Boston, 1890), p. 504. Professor Garner says: "Notwithstanding the spread of the bicameral system there has been in recent years more and more of a disposition to recognize that some of the advantages claimed for it are not real and to maintain that, on the contrary, the advantages of a single-chamber assembly, under modern conditions, more than counterbalances the advantages. The bicameral principle, therefore, like the theory of the separation of powers, has lost much of the sacrosanct character which it once possessed in the popular mind and

has been the object of increasing attack by political writers. . . ." Garner, *Political Science and Government*, p. 608.

31. See *The Vermont Republican*, January 17, 1814, Windsor, Vermont; *The Green Mountain Farmer*, February 6, 1814, Bennington, Vermont; *ibid.*, March 22, 1814; *The Vermont Gazette*, January 22, 1822, Bennington, Vermont; *ibid.*, May 27, 1828; *ibid.*, June 17, 1828.

32. Amos, *The Science of Politics*, pp. 245-246.

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